



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR
ABBEY SETH MAYER
DIRECTOR
OFFICE OF PLANNING

OFFICE OF PLANNING

235 South Beretania Street, 6th Floor, Honolulu, Hawai'i 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824

Statement of
ABBEY S. MAYER
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
**HOUSE COMMITTEE ON ENERGY AND
ENVIRONMENTAL PROTECTION**
Tuesday, February 24, 2009
10:00 AM.
State Capitol, Conference Room 325

in consideration of
HB245 HD1
RELATING TO RENEWABLE ENERGY FACILITIES.

Bill No. 245
Support **Y N**
Date 2/23/09
Time 1600
Cat AF AS AX B C
Type 1 2 W

Chair Morita, Vice Chair Coffman, and Members of the House Committee on Energy and Environmental Protection.

The Office of Planning (OP) provides the following comments. OP supports development of renewable energy facilities and technology in Hawai'i. The proposed HD1 now has language that makes clear that renewable energy facilities may be allowed within conservation or agricultural districts or special management areas. Additionally, the proposed HD1 directs the regulatory agencies involved with permitting or approving of such facilities the opportunity to adopt rules specifying the types that may be allowed, criteria for siting decisions, and possible applicable mitigation measures. This serves to keep the discretionary authority for approval of such facilities with the appropriate regulatory agencies which, OP supports.

OP would like to point out that the process of drafting and amending administrative rules is labor- and resource-intensive for agencies. The agencies that will be impacted by this bill will be the Department of Land and Natural Resources, the State Land Use Commission, the individual counties through their planning departments, and OP through its Special Management (SMA) responsibility for Kaka'ako and Kalaeloa Community Development Districts. OP would also experience fiscal and staffing impacts in preparing SMA rules. It is difficult to estimate these impacts but they could divert staff from existing core tasks. OP defers to those other agencies regarding the budgetary impacts such a requirement would create.

Thank you for the opportunity to testify.

LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON
ENERGY AND ENVIRONMENTAL PROTECTION
TUESDAY, FEBRUARY 24, 2009
10:00 a.m.
Room 325

HOUSE BILL NO. 245, HD 1 (PROPOSED)
RELATING TO RENEWABLE ENERGY FACILITIES

Bill No. 245

Support Y N

Date 2/23

Time 1726

Cat AF AS AX B C

Type 1 2 WI

Chairperson Morita and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 245, Proposed House Draft 1 which seeks to amend Chapter 201N, HRS (renewable energy facility siting process) by allowing the siting, construction and operation of renewable energy facilities and related infrastructure and uses within the Agricultural and Conservation District and Special Management Areas, provided that the facilities comply with all applicable regulatory laws in Chapters 205 (Land Use Commission), 205A (Coastal Zone Management), and 343 (Environmental Impact Statements). The Department of Agriculture supports this measure with four amendments, one of which is to limit the renewable energy facilities to be considered to those renewable energy facilities already permissible on Agricultural District lands which include wind energy facilities (Section 205-4.5(a)(14) and Section 205-2(d)(4)), bio-fuel processing facilities (Section 205-4.5(a)(15) and Section 205-2(d)(5)), agricultural-energy facilities (Section 205-4.5(a)(16) and Section 205-2(d)(7)), and solar energy facilities (Section 205-2(d)(6)). Each of these facilities are already permissible in the Agricultural District with the conditions that they are related to or compatible with agricultural uses, do not adversely impact agricultural lands and/or uses in the vicinity, and are limited to agricultural lands with poor productivity potential.

The Legislature, in passing the bills to establish the above renewable energy facilities as permissible uses on agricultural lands, recognized the importance of ensuring that agricultural resources such as land and water, and agricultural activities, whether existing or potential, are not adversely affected by the location and scale of these facilities.

The four proposed amendments involve adding the term "agricultural resources and activities" to page 2, lines 2 and 21; page 3, line 13; and page 3, end of line 19.

"SECTION 1. The legislature finds that the State's dependence on petroleum for over ninety per cent of its energy needs is more than any other state in the nation. This dependence makes Hawaii extremely vulnerable to any oil embargo, supply disruption, international market dysfunction, and many other factors beyond the State's control.

Energy efficiency and the use of renewable energy resources will increase Hawaii's energy self-sufficiency and achieve broad societal benefits, including increased energy security, resistance to oil prices, environmental sustainability, economic development, job creation, and food self-sufficiency.

The legislature also finds that achieving Hawaii's renewable energy goals may require the development of renewable energy facilities on conservation and agricultural districts or special management areas. While conservation and agricultural districts and special management areas contain many valuable

resources for the State that need special protection, the benefits of energy self-sufficiency and the reduction of our reliance on petroleum-based energy renewable energy facilities, under proper supervision and oversight to protect agricultural resources and activities, and the public health, safety, and welfare, warrants those facilities being a permitted use within those districts and area.

SECTION 2. Chapter 201N, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§201N- Conservation and agricultural districts; special management areas; compatibility. (a) Notwithstanding any law to the contrary, the siting, development, construction, and operation of a renewable energy facility may be allowed within a conservation or agricultural district or special management area.

(b) This section shall not:

- (1) Exempt renewable energy facilities from any permit or approval process under chapters 205, 205A, or 343; or
- (2) Prevent any agency or authority that issues permits or approvals for renewable energy facilities from imposing reasonable and appropriate restrictions on the siting, development, construction, and operation

of a renewable energy facility to protect **agricultural resources and activities, and** the environment or the health, safety, and welfare of the State.

(d) All agencies and authorities that issue permits or approvals for renewable energy facilities shall adopt rules pursuant to chapter 91 to:

- (1) Determine the type of renewable energy facility that may be allowed within a conservation or agricultural district or special management area;
- (2) Determine criteria for the appropriate siting of renewable energy facilities within a conservation or agricultural district or special management area;
- (3) Identify mitigation measures applicable to renewable energy facilities to protect **agricultural resources and activities, and** the environment and the health, safety, and welfare of the State; and
- (4) Allow the energy resources coordinator to give priority to applications issued as a result of this section; provided that the priority shall not mitigate the effect of any law regulating renewable energy facilities."

(e) Notwithstanding any law to the contrary, renewable energy facilities, for the purposes of this Act shall be limited

to wind energy facilities pursuant to section 205-4.5(a)(14) and section 205-2(d)(4); bio-fuel processing facilities pursuant to Section 205-4.5(a)(15) and Section 205-2(d)(5); agricultural-energy facilities pursuant to Section 205-4.5(a)(16) and Section 205-2(d)(7); and solar energy facilities pursuant to Section 205-2(d)(6) .

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2020."