

STAND. COM. REP. NO. 941

Honolulu, Hawaii

MAR 25 2009

RE: H.B. No. 591  
H.D. 1  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Madam:

Your Committees on Water, Land, Agriculture, and Hawaiian Affairs and Energy and Environment, to which was referred H.B. No. 591, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES,"

beg leave to report as follows:

The purpose of this measure is to authorize and encourage the establishment of preferential rates for renewable energy produced in conjunction with agricultural activities.

Testimony in support of this measure was submitted by four organizations. Comments were submitted by one state commission. Written testimony presented to your Committees may be reviewed on the Legislature's website.

Your Committees find that this is a critical juncture for agriculture in Hawaii, and that prolonged drought and the rapidly deteriorating economy are having a significant negative impact upon the agricultural industry. This measure will help support the continuation and growth of the agricultural industry.

The Hawaiian Commercial and Sugar Company (HC & S) produces electricity for its sugar milling, irrigation pumping, and other internal operations and provides electricity to the Maui Electric Company (MECO). The biomass electricity is primarily produced by burning bagasse, the residual fiber of the sugar cane plant, as a fuel to generate steam for the production of power. In addition

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to providing approximately seven per cent of MECO's electricity, HC & S also serves as a firm power source for MECO, and has played a significant role in the restoration of MECO's electrical service during power outages. The preferential renewable energy rates will enhance the prospects of attracting new agricultural related renewable energy producers as well as retain those presently in production. The result will be a reduction in Hawaii's dependence on fossil fuel imports, a step towards Hawaii's future energy security, and a method to sustain the agricultural industry.

Your Committees have amended this measure by changing the effective date to upon approval.

As affirmed by the records of votes of the members of your Committees on Water, Land, Agriculture, and Hawaiian Affairs and Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 591, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 591, H.D. 1, S.D. 1, and be referred to the Committee on Commerce and Consumer Protection.

Respectfully submitted on behalf of the members of the Committees on Water, Land, Agriculture, and Hawaiian Affairs and Energy and Environment,



MIKE GABBARD, Chair



CLAYTON HEE, Chair



The Senate  
Twenty-Fifth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Water, Land, Agriculture and Hawaiian Affairs**  
**WTL**

Bill / Resolution No.:* <b>HB 591, HD1</b>	Committee Referral: <b>WTL/ENE, CPN</b>	Date: <b>01/18/09</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
TOKUDA, Jill N. (VC)	✓			
BUNDA, Robert				✓
FUKUNAGA, Carol	✓			
KOKUBUN, Russell S.				✓
TAKAMINE, Dwight Y.	✓			
HEMMINGS, Fred				✓
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>3</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original            Yellow            Pink            Goldenrod File with Committee Report            Clerk's Office            Drafting Agency            Committee File Copy				

\*Only one measure per Record of Votes

The Senate  
 Twenty-Fifth Legislature  
 State of Hawaii

**Record of Votes**  
**Committee on Energy and Environment**  
**ENE**

Bill / Resolution No.:*	Committee Referral:	Date:		
<i>HB 591 HDI</i>	<i>WTL/ENE, CPV</i>	<i>19 March 2009</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
GABBARD, Mike (C)	/			
ENGLISH, J. Kalani (VC)	/			
GREEN, M.D., Josh	/			
HOOSER, Gary L.	/			
IHARA, Jr., Les				/
KOKUBUN, Russell S.	/			
HEMMINGS, Fred				/
<b>TOTAL</b>	<i>5</i>			<i>2</i>
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>J. Kalani English</i>				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

\*Only one measure per Record of Votes

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# A BILL FOR AN ACT

RELATING TO PUBLIC UTILITIES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that public utilities in  
2 Hawaii are required to meet renewable portfolio standards.  
3 These standards require twenty per cent of each electric  
4 utility's sales to come from renewable energy by 2020. The  
5 Hawaii Clean Energy Initiative proposes to increase this  
6 renewable energy requirement to forty per cent by 2030.  
7 Additionally, the Hawaii Constitution identifies increased  
8 agricultural self-sufficiency as being in the public interest.

9           The legislature also finds that renewable energy creates  
10 the maximum benefit to the State when it is locally produced.  
11 Renewable energy sources that complement the production of  
12 agricultural products are especially desirable. These sources  
13 provide for food and fiber self-sufficiency while also providing  
14 electricity. It is in the interest of the State to encourage  
15 the synergy between agricultural production and renewable energy  
16 production.

17           The legislature further finds that preferential rates for  
18 electrical energy produced in conjunction with agricultural

1 activities, which includes compensation to agricultural energy  
2 producers for their costs and a reasonable return on investment,  
3 will support the long-term viability of renewable energy  
4 produced by agricultural producers. The legislature concludes  
5 that this will serve two policy goals of the State:

- 6 (1) Increased energy self sufficiency; and
- 7 (2) Increased agricultural sustainability.

8 The purpose of this Act is to authorize and encourage the  
9 establishment of preferential rates for renewable energy  
10 produced in conjunction with agricultural activities.

11 SECTION 2. Chapter 269, Hawaii Revised Statutes, is  
12 amended by adding a new section to be appropriately designated  
13 and to read as follows:

14 **"§269- Preferential renewable energy rates; agricultural**  
15 **activities.** It is the policy of the State to promote the long-  
16 term viability of agriculture by establishing mechanisms that  
17 provide for preferential rates for the purchase of renewable  
18 energy produced in conjunction with agricultural activities.  
19 The public utilities commission shall have the authority to  
20 establish preferential rates for the purchase of renewable  
21 energy produced in conjunction with agricultural activities.

1        Upon receipt of a bona fide request for preferential rates  
2 for the purchase of renewable energy produced in conjunction  
3 with agricultural activities, and proof that the renewable  
4 energy is produced in conjunction with agricultural activities,  
5 a public utility shall forward the request for preferential  
6 rates to the public utilities commission for approval."

7        SECTION 3. New statutory material is underscored.

8        SECTION 4. This Act shall take effect upon its approval.

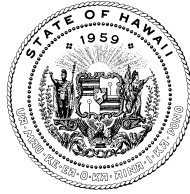
**Report Title:**

Renewable Energy; Agricultural Activities; Preferential Rates

**Description:**

Authorizes preferential rates for the purchase of renewable energy produced in conjunction with agricultural activities.  
(SD1)





LINDA LINGLE  
GOVERNOR  
  
JAMES R. AIONA, JR.  
LT. GOVERNOR

STATE OF HAWAII  
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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LAWRENCE M. REIFURTH  
DIRECTOR  
  
RONALD BOYER  
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2009

THURSDAY, APRIL 2, 2009  
10:00 A.M.

TESTIMONY OF CATHERINE P. AWAKUNI, EXECUTIVE DIRECTOR,  
DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND  
CONSUMER AFFAIRS TO THE HONORABLE ROSALYN BAKER, CHAIR, AND  
MEMBERS OF THE COMMITTEE

**HOUSE BILL NO. 0591, HOUSE DRAFT 1, SENATE DRAFT 1 – RELATING TO  
PUBLIC UTILITIES.**

**DESCRIPTION:**

This measure authorizes preferential rates for the purchase of renewable energy produced in conjunction with agricultural activities.

**POSITION:**

The Division of Consumer Advocacy (“Consumer Advocate”) offers comments for the Committee’s consideration.

**COMMENTS:**

The measure seeks to give the Hawaii Public Utilities Commission (“Commission”) authority to establish preferential rates for the purchase of renewable energy produced in conjunction with agricultural activities. Current law, however, may block this provision. The Commission reviews purchased power agreements (“PPA”) between electric utilities and independent power producers, including renewable energy power producers. Hawaii Revised Statutes section 269-27.2 may in some circumstances prohibit the provision of a premium price – one that exceeds 100 percent of the electric utility’s avoided costs.

The Consumer Advocate understands the intent of the measure to promote renewable energy and agricultural sustainability, but must emphasize that other ratepayers, not the utilities, will subsidize the preferential rates provided to agricultural users. The Consumer Advocate will defer to the judgment of the Legislature.

H.B. No. 0591, H.D. 1, S.D. 1  
Senate Committee on Commerce and Consumer Protection  
Thursday, April 2, 2009, 10:00 A.M.  
Page 2

In addition, the Consumer Advocate suggests that a definition or criteria be developed for qualified "agricultural activities."

Thank you for this opportunity to testify.

**TESTIMONY OF CARLITO P. CALIBOSO  
CHAIRMAN, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEE ON  
COMMERCE & CONSUMER PROTECTION  
APRIL 2, 2009**

**MEASURE: H.B. No. 591 H.D. 1 S.D.1**  
**TITLE: Relating to Public Utilities**

Chair Baker and Members of the Committee:

**DESCRIPTION:**

This bill amends chapter 269, Hawaii Revised Statutes ("HRS"), by including a new section to establish preferential rates for renewable energy produced in conjunction with agricultural activities.

**POSITION:**

The Commission appreciates the intent of this bill to assist and encourage agricultural activities, but has concerns because of the effect it would have on increasing electricity rates for the majority of ratepayers unnecessarily and, therefore, do not recommend adopting the proposed measure.

**COMMENTS:**

- With respect to this proposed incentive, it is unclear as to what is meant by "in conjunction with agricultural activities," and may be overly broad and include many activities.
- More importantly, this Committee should be aware that any "preferential rate" that is higher than would otherwise normally be paid to energy producers will have to be borne by electricity ratepayers, and the Commission expresses serious reservations about this bill's effect of increasing the ratepayers' already heavy economic burden during the difficult economic environment that we are currently experiencing.

Thank you for the opportunity to testify.



**TESTIMONY**  
**Senate Committee on Commerce and Consumer Protection**  
**RE: HB 591, HD1, SD1, RELATING TO PUBLIC UTILITIES**

**April 2, 2009**

Chair Baker and Members of the Committee:

My name is Warren Watanabe and I am Field Representative of HFBF and the Executive Director of Maui County Farm Bureau. Hawaii Farm Bureau Federation is Hawaii's general agriculture advocacy organization and we represent farmers and ranchers across the State.

HFBF is in **strong support** of HB 591, HD1, SD1, as amended, authorizing a preferential rate for electricity purchased by electric utilities from renewable energy producers associated with agricultural activities.

Hawaii was a world leader in renewable energy production up to the 1980s. Other countries came to Hawaii to see how it was done. Rural areas of Hawaii obtained most of their energy from agriculture ...the sugarcane companies not only produced energy to meet their own needs but provided for the community as well. This is the model we need to increase our level of energy self sufficiency. Our farms and ranches all need energy, whether it runs refrigeration to cool their produce or for processing plants, as many of our ranches look to vertically integrate to process their own beef. The excess energy could be sold to the utility as in the sugarcane model.

By producing their own energy, our farms and ranches can reduce the load on the utility company. The proposed preferential rate would incentivize our farms and ranches to move in this direction. Kahua Ranch on the Big Island is a prime example. It utilizes various forms of energy production; solar, wind, and PV to provide for its operations as well as for the residences on the ranch. They are a true model of self sufficiency.

Agriculture doesn't just happen. It happens because of farmers and ranchers. Farmers and ranchers need to be viable to remain in business. This bill provides a means to increase their viability by increasing their revenue base. Opponents say it favors one industry over another. Article XI Section 3 of our State Constitution recognizes the importance of agriculture to the State of Hawaii. This provides the framework for supporting and cultivating the industry to provide our daily food and fiber not only for today but for future generations. When planes stop flying or ships stop coming to the islands, it will be too late to say "We must support ag". Whenever, there is a strike or other catastrophic emergency, there are loud outcries about the need for self sufficiency. It cannot happen overnight. We need your strong support of measures such as HB591 to ensure agriculture remains strong and viable to meet everyone's needs in the future.

We have come before you on other matters relating to the Public Utilities Commission. In all of the other hearings, we have been told that if we desire a position by the PUC, it should be stated in law. Another question may be about the measure's impact on the consumer. After all, the ratepayers will need to pay the difference in price. When oil prices rise to levels close to \$150, everyone wishes there were more local production. This investment provides one of the means to increase **both energy and food self sufficiency**.

The intent of this measure is to help agricultural operations. It is important that entities be involved directly in the production of crops or livestock. We have met with personnel from Hawaiian Electric Company and expect to continue working with them to make this measure practical and meet the intent of promoting commercial agricultural viability.

Again, we respectfully **request your strong support of HB591, HD1, SD1, to increase our level of energy and food self sufficiency** and to support the long term future of a strong and viable agricultural industry. Thank you.



# Hawaii Crop Improvement Association

*Growing the Future of Worldwide Agriculture in Hawaii*

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Paul Koehler

Leslie Poland

Martha Smith

Mark Stoutemyer

Jill Suga

**Past President**

Sarah Styan

**Executive Director**

Alicia Maluafiti

Testimony By: Alicia Maluafiti

HB 591hd1, SD1, Relating to Public Utilities

Senate CPN Committee

Thursday, April 2, 2009

Room 229, 10:00 am

Position: Strong Support

Chair Baker, and Members of the Senate CPN Committee:

My name is Alicia Maluafiti, Executive Director of the Hawaii Crop Improvement Association. The Hawaii Crop Improvement Association (HCIA) is a nonprofit trade association representing the agricultural seed industry in Hawaii. Now the state's largest agricultural commodity, the seed industry contributes to the economic health and diversity of the islands by providing high quality jobs in rural communities, keeping important agricultural lands in agricultural use, and serving as responsible stewards of Hawaii's natural resources.

This bill provides support to those agricultural-related businesses that are innovative in its approach to link agriculture production and renewable energy production. It is one of the many policy and incentive support needed to wean Hawaii away from fossil fuel consumption, and it adds to the stability of agriculture in Hawaii.

We urge your support of this bill. Thank you for the opportunity to testify.

**HB 591 HD1 SD1  
RELATING TO PUBLIC UTILITIES**

**PAUL T. OSHIRO  
MANAGER – GOVERNMENT RELATIONS  
ALEXANDER & BALDWIN, INC.**

**APRIL 2, 2009**

Chair Baker and Members of the Senate Committee on Commerce & Consumer Protection:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and its agricultural company Hawaiian Commercial & Sugar Company on HB 591 HD1 SD1, "A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES." We support this bill.

Hawaiian Commercial & Sugar Company (HC&S) has been in operation for over 125 years. While Hawaii's many other sugar companies have shut down over the years, HC&S has been fortunate, through significant investments in our agricultural infrastructure and operations and the implementation of our diversified bio-production program, to have sustained our operations and continue as a major employer in the State of Hawaii. Today, as we face increasingly lower margins from raw sugar production because of flat commodity prices along with increasing production costs, HC&S is in the process of transitioning from a primary producer of commodity sugar into the production of specialty sugar and bio-based products. In addition to being the sole supplier of Sugar In The Raw, the little brown packets of sugar seen at restaurants and coffee shops across the nation, HC&S is also expanding production of our specialty Maui Brand Sugar.

In addition, HC&S generates biomass produced electricity for its sugar milling, irrigation pumping, and other internal operations and also provides electricity to Maui Electric Company (MECO). This biomass electricity is primarily produced by burning bagasse, the residual fiber of the sugar cane plant, as a fuel to generate steam for the production of power. In addition to providing approximately 7% of MECO's electricity, HC&S also serves as a firm power source to MECO, and has played a significant role in the restoration of MECO's electrical service during power outages.

This bill authorizes the Public Utilities Commission to provide preferential rates for the purchase of renewable energy produced in conjunction with agricultural activities. We believe that this bill will assist in providing farmers with an additional means of sustaining their agricultural operations. We envision that these preferential renewable energy rates will also enhance the prospects of attracting new agriculture related renewable energy producers as well as retaining those presently in production. The overall result will be the lowering of Hawaii's dependence on fossil fuel imports, increase the prospects of Hawaii's future energy security, and to help sustain agriculture in Hawaii.

This is a particularly critical juncture for agriculture in Hawaii. The prolonged drought and the rapidly deteriorating economy are having a significant negative impact upon the agricultural industry in Hawaii. As a result of the last two years of drought, it is our understanding that the losses in pasture, livestock, floral, and foliage crops will total over \$50 million. With farms that have survived for generations reportedly on the brink of closing their doors, the loss of critical mass in the agricultural industry will continue to



be of significant concern. This bill will help to support the continuation and growth of agriculture in this State.

Based on the aforementioned, we respectfully request your favorable consideration on this bill. Thank you for the opportunity to testify.