

Honolulu, Hawaii

MAR 27 2009

RE: H.B. No. 245
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 Committee on Energy and Environment, to which was
referred H.B. No. 245, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY FACILITIES,"

begs leave to report as follows:

The purpose of this measure is to support renewable energy
facility development in Hawaii by:

- (1) Providing that the siting, development, construction, and operation of a renewable energy facility may be allowed within a conservation or agricultural district or special management area, subject to permit and approval processes under applicable statutory provisions and to the discretionary authority of permitting agencies or authorities to impose conditions;
- (2) Requiring all agencies and authorities that issue permits or approvals to adopt rules pursuant to chapter 91, Hawaii Revised Statutes, to develop criteria for, identify mitigation measures applicable to, and otherwise regulate renewable energy facilities within conservation or agricultural districts or special management areas; and
- (3) Limiting renewable energy facilities to wind energy facilities, biofuel processing facilities, agricultural-energy facilities, and solar energy facilities, as those



terms are defined within specific sections of chapter 205, Hawaii Revised Statutes.

Testimony in support of this measure was submitted by two state departments and one private organization. Testimony in support of the measure, with amendments, was submitted by one private organization. Testimony in support of the intent of the measure, with suggested amendments, was submitted by one state department. Testimony in opposition to the measure was submitted by one private organization. Written testimony presented to your Committee may be reviewed on the Legislature's website.

Your Committee finds that it is the intent of this measure to balance the competing goals of energy self-sufficiency and the reduction of Hawaii's reliance on petroleum-based energy, with the protection of conservation, agricultural, and special management area lands. However, your Committee also finds that it is important that agencies tasked with permitting renewable energy facilities are able to use their discretion to craft appropriate mitigation measures when reviewing such projects. Further, requiring agencies to adopt additional rules could unnecessarily burden the agencies and may not be necessary if such approvals are already within the agencies' discretion or the agencies can adopt procedures to the same effect.

Your Committee has amended this measure by:

- (1) Clarifying that agencies and authorities may impose reasonable restrictions or require mitigation measures to protect natural resources and cultural resources and activities, in addition to agricultural resources and activities, the environment, or the health, safety, and welfare of the residents of the State;
- (2) Giving agencies and authorities that issue permits or approvals for renewable energy facilities the discretion to adopt rules or procedures for renewable energy facilities, rather than mandating that such entities adopt rules pursuant to chapter 91, Hawaii Revised Statutes;
- (3) Clarifying that the types of renewable energy facilities allowed pursuant to sections 205-2(d)(4) through (7) and 205-4.5(a)(14) through (16), Hawaii Revised Statutes, applies to the types of facilities that are permitted



within the state agricultural district and not to facilities in the conservation district or special management area;

- (4) Reiterating that the proposed amendments in the measure are not intended to diminish the discretion of any agency or any authority under existing laws to approve or disapprove any permit application; and
- (5) Changing its effective date from July 1, 2020, to July 1, 2009.

As affirmed by the record of votes of the members of your Committee on Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 245, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 245, H.D. 1, S.D. 1, and be referred to the Committee on Water, Land, Agriculture, and Hawaiian Affairs.

Respectfully submitted on
behalf of the members of the
Committee on Energy and
Environment,



MIKE GABBARD, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Energy and Environment
ENE

Bill / Resolution No.:* <i>HB 245 HD1</i>	Committee Referral: <i>ENE, WTL</i>	Date: <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				/
TOTAL	<i>3</i>	<i>2</i>		<i>2</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align: center; font-family: cursive; font-size: 1.2em;">J. Kalani English</div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

***Only one measure per Record of Votes**