

STAND. COM. REP. NO.

161

Honolulu, Hawaii

FEB 14 2011

RE: S.B. No. 298

S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which
was referred S.B. No. 298 entitled:

"A BILL FOR AN ACT RELATING TO BUSINESS REGULATION,"

begs leave to report as follows:

The purpose and intent of this measure is to authorize the
formation of sustainable benefit corporations, a form of private
business corporation that offers entrepreneurs and investors the
option to build and invest in enterprises that operate in a
socially and environmentally responsible manner.

Your Committee finds that under general principles of corporate
organization, the directors of a corporation have a singular and
enforceable duty to maximize shareholder profits. Your Committee
further finds that this duty may prevent entrepreneurs and
investors from achieving their own goals of establishing and
investing in private enterprises that serve social or
environmental purposes in addition to pursuing profits. Your
Committee finds that several other states have responded to market
demand for opportunities to pursue good corporate citizenship by
authorizing the formation of corporate entities that may be
governed according to principles other than pure profit motive.
Your Committee notes that the corporate structure authorized by
this measure is a voluntary designation that preserves the private
nature of corporations that choose it and relies on the governing
structure of the corporation itself for enforcement. Finally,
your Committee finds that authorizing the formation of sustainable
benefit corporations in this State will help to diversify Hawaii's



economy by attracting entrepreneurship and investment in innovative businesses and emerging industries.

Your Committee has amended this measure by deleting its contents and replacing them with provisions to authorize the establishment of sustainable business corporations within this State, specifically:

- (1) A statement of the purpose of the measure and related legislative findings;
- (2) Definitions of relevant terms;
- (3) Requirements for the formation of a sustainable business corporation, including the applicability of the organizational requirements for domestic corporations found in chapter 414, Hawaii Revised Statutes;
- (4) Procedures for an existing domestic corporation to elect to become a sustainable business corporation;
- (5) Procedures for the termination of a corporation's status as a sustainable business corporation;
- (6) Requirements for the corporate purpose of a sustainable business corporation;
- (7) Requirements for standards of conduct for the board of directors of a sustainable business corporation, including requirements to consider the effects of actions of the sustainable business corporation on shareholders, employees, beneficiaries, the community, the environment, and the sustainable business corporation;
- (8) Requirements for the election and duties of a benefit director charged with overseeing internal corporate enforcement of the requirements imposed on a sustainable business corporation;
- (9) Requirements for standards of conduct for officers of a sustainable business corporation including requirements to consider the effects of actions of the sustainable business corporation on shareholders, employees,



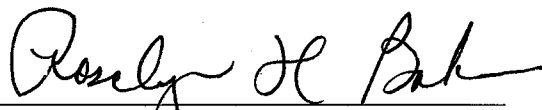
beneficiaries, the community, the environment, and the sustainable business corporation;

- (10) Authorization for the appointment by a sustainable business corporation of a benefit officer with the duty to manage the activities of the sustainable business corporation in creating the general or specific public benefit provided in the bylaws or by the board of directors of the sustainable business corporation;
- (11) Authorization of a private right of action by the sustainable business corporation or its shareholders or directors, persons with an equity interest, and other persons authorized by its articles or bylaws to enforce the provisions of this measure;
- (12) Requirements for an annual report to shareholders, the Department of Commerce and Consumer Affairs, and the public; and
- (13) Authorization for the Department of Commerce and Consumer Affairs to adopt rules pursuant to chapter 91, Hawaii Revised Statutes, for the administration of this measure.

Prior to amending this measure, a proposed S.D. 1 was prepared and made available for public review.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 298, as amended herein, and recommends that it be recommitted to the Committee on Commerce and Consumer Protection, in the form attached hereto as S.B. No. 298, S.D. 1, for further consideration.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* <div style="font-size: 1.5em; font-family: cursive;">SB 298</div>	Committee Referral: <div style="font-size: 1.5em; font-family: cursive;">CPN</div>	Date: <div style="font-size: 1.5em; font-family: cursive;">2/14/2011</div>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
GALUTERIA, Brickwood	✓			
GREEN, M.D., Josh				✓
NISHIHARA, Clarence K.				✓
SOLOMON, Malama				✓
SLOM, Sam	✓			
TOTAL	4	0	0	3
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; margin-left: 50px;">[Signature]</div>				
Distribution: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="text-align: center;">Original File with Committee Report</div> <div style="text-align: center;">Yellow Clerk's Office</div> <div style="text-align: center;">Pink Drafting Agency</div> <div style="text-align: center;">Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes