

STAND. COM. REP. NO.

2679

Honolulu, Hawaii

MAR 02 2012

RE: S.B. No. 2981
S.D. 2

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 2981, S.D. 1, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to require the Public Utilities Commission to direct electric utilities to include plans to utilize indigenous, renewable energy sources, including geothermal resources, capable of producing firm power when crafting integrated resource plans.

Your Committee received testimony in support of this measure from Indigenous Consultants, LLC and Innovations Development Group, Inc. Your Committee received testimony in opposition to this measure from over one hundred individuals. Your Committee received comments on this measure from the Public Utilities Commission; Hawaii BioEnergy, LLC; and I Aloha Molokai.

Your Committee finds that this measure is intended to increase the use of firm, indigenous renewable resources. Your Committee further finds that the State must develop a range of local renewable energy resources in order to meet its growing energy needs, enhance energy security, and reach the State's ambitious renewable energy initiative.

Your Committee learned that the Public Utilities Commission recently approved a revised Integrated Resource Plan framework, which calls for electric utilities to develop scenarios as part of



their planning process to meet energy objectives and customer needs. The use of scenarios allows the electric utilities to be more adaptable and resilient to circumstances beyond their control and take advantage of opportunities for more cost-effective energy production that may arise in the future. Your Committee finds that providing the Public Utilities Commission with more discretion in directing electric utilities to develop or consider certain scenarios maintains the flexibility and adaptability intended by the Integrated Resource Plan framework.

Your Committee also notes that this measure was interpreted by some to require an electric utility to break its avoided cost contracts with an independent power producer. This contract impairment provision would likely result in a violation of the Contract Clause of the United States Constitution, and should be removed from this measure. The Public Utilities Commission is aware of this important issue and is considering closer scrutiny or an investigation of the methodology used to calculate avoided cost.

Your Committee has amended this measure by:

- (1) Clarifying that the Public Utilities Commission may direct electric utilities to develop certain scenarios as part of their integrated resource plans;
- (2) Clarifying that the Public Utilities Commission may direct electric utilities to consider certain resources options as part of their integrated resource plans;
- (3) Clarifying the possible scenarios and resource options the Public Utilities Commission may direct electric utilities to examine;
- (4) Deleting the requirement that would have required an electric utility to replace existing power purchase agreements with independent power producers that contain avoided cost provisions;
- (5) Deleting the requirement for the Public Utilities Commission to submit a report of its actions to the Legislature no later than twenty days prior to the convening of the Regular Session of 2013 and requiring the Commission to instead include its actions taken, findings, recommendations, and any proposed legislation



necessary to further the purposes of this measure in its 2013 and 2014 annual reports to the Governor; and

(6) Amending the purpose section for clarity.

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. 2981, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2981, S.D. 2.

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


ROSALYN H. BAKER, Chair



Record of Votes
Committee on Commerce and Consumer Protection
CPN

*Only one measure per Record of Votes