

Honolulu, Hawaii

MAR 25 2013

RE: H.B. No. 815  
H.D. 2  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Seventh State Legislature  
Regular Session of 2013  
State of Hawaii

Madam:

Your Committee on Commerce and Consumer Protection, to which  
was referred H.B. No. 815, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO ELECTRIC COOPERATIVES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Direct the Public Utilities Commission and the Division of Consumer Advocacy to consider the ownership structure and interests of an electric cooperative in determining appropriate regulations; and
- (2) Authorize the Public Utilities Commission to waive or exempt an electric cooperative from certain regulations.

Your Committee received testimony in support of this measure from the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, Public Utilities Commission, Kaua'i Island Utility Cooperative, and seven individuals. Your Committee received testimony in opposition to this measure from Konohiki Hydro Power, Blue Planet Foundation, Hawaii Solar Energy Association, and one individual. Your Committee received comments on this measure from two individuals.

Your Committee finds that chapter 269, Hawaii Revised Statutes, is structured to provide regulatory oversight of investor-owned electric utilities. Although electric utility



cooperatives are member-owned and operate on a not-for-profit basis, existing law does not provide any exceptions for these cooperatives.

Your Committee further finds that the intent of this measure and its companion, S.B. No. 1045, S.D. 1, which was previously passed by the Senate, is to ensure that the regulation of electric cooperatives in Hawaii is done in a way that is most efficient, while also providing adequate safeguards for affected ratepayers within the bounds of the Public Utilities Commission's existing regulatory authority. Your Committee also finds that this measure and S.B. No. 1045, S.D. 1, do not give an electric cooperative or the Public Utilities Commission unfettered discretion to grant a waiver or exemption. Any waiver or exemption would go through a formal proceeding before the Public Utilities Commission and would include the Consumer Advocate as a party.

However, your Committee notes that this measure does not permit an electric cooperative to request a waiver or exemption from any provision in chapter 269, Hawaii Revised Statutes. Most of the regulatory requirements that are imposed on electric utilities and electric cooperatives and which give the Public Utilities Commission its regulatory authority are found in chapter 269, Hawaii Revised Statutes. Furthermore, your Committee is concerned that this measure makes the scope of the Public Utilities Commission's ability to review and issue waivers or exemptions unclear and potentially overly broad.

In comparison, your Committee finds that S.B. No. 1045, S.D. 1, contains language that permits the Public Utilities Commission to waive or exempt an electric cooperative from any or all requirements of chapter 269, Hawaii Revised Statutes, or other applicable franchises, charters, decisions, orders, rules, or any other laws. S.B. No. 1045, S.D. 1, is therefore preferable because it provides the necessary exemptions for electric utility cooperatives, while also providing adequate protection to the cooperative's members/owners.

Accordingly, your Committee has amended this measure by deleting its contents and replacing them with the contents of S.B. No. 1045, S.D. 1, a substantively similar measure which:

- (1) Directs the Public Utilities Commission and the Division of Consumer Advocacy to specifically consider the

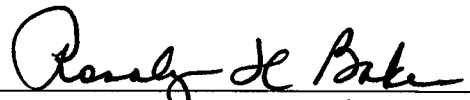


ownership structure and interests of an electric cooperative; and

- (2) Authorizes the Public Utilities Commission to waive or exempt an electric cooperative operating in the State from compliance with the provisions of chapter 269, Hawaii Revised Statutes, as well as any other applicable charters, franchises, rules, decisions, orders, or any other laws.

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 H.B. No. 815, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 815, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

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



ROSALYN H. BAKER, Chair



The Senate  
Twenty-Seventh Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

Bill / Resolution No.:* <b>HB 815, HD2</b>	Committee Referral: <b>CPN</b>	Date: <b>3-19-13</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: <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 type="checkbox"/> Recommit 2313</div> </div>				
<b>Members</b>	<b>Aye</b>	<b>Aye (WR)</b>	<b>Nay</b>	<b>Excused</b>
BAKER, Rosalyn H. (C)	X			
GALUTERIA, Brickwood (VC)	X			
NISHIHARA, Clarence K.	X			
SOLOMON, Malama	X			
TANIGUCHI, Brian T.				X
WAKAI, Glenn	X			
SLOM, Sam	X			
<b>TOTAL</b>	<b>6</b>			<b>1</b>
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="text-align: center; margin-top: 10px;"> </div>				
<div style="display: flex; justify-content: space-between; font-size: small;"> <div>Distribution:</div> <div>Original</div> <div>Yellow</div> <div>Pink</div> <div>Goldenrod</div> </div> <div style="display: flex; justify-content: space-between; font-size: x-small; margin-top: 2px;"> <div>File with Committee Report</div> <div>Clerk's Office</div> <div>Drafting Agency</div> <div>Committee File Copy</div> </div>				

\*Only one measure per Record of Votes