

STAND. COM. REP. NO. **472**

Honolulu, Hawaii

FEB 17 2017

RE: S.B. No. 382
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 382 entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to make various
updates to the structure and operations of the Public Utilities
Commission to increase efficiency and effectiveness, including:

- (1) Permitting teleconference and videoconference abilities;
- (2) Updating the composition of the Commission;
- (3) Specifying training requirements for commissioners;
- (4) Clarifying commissioners' ability to appoint and employ staff;
- (5) Permitting neighbor island commissioners to receive per diem compensation and compensation for travel expenses;
- (6) Requiring the Commission to report to the Legislature regarding certain staff duties; and
- (7) Requiring a management audit of the Commission.



Your Committee received testimony in support of this measure from the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs; Young Brothers, Limited; and two individuals. Your Committee received comments on this measure from the Public Utilities Commission; Office of the Auditor; and International Brotherhood of Electrical Workers Local Union 1260, AFL-CIO.

Your Committee finds that the Public Utilities Commission (Commission) has several long and short term goals that reflect the Commission's increased work complexity and program responsibilities, which go beyond the Commission's traditional regulatory role. Due to the Commission's increasing responsibilities and the evolution of the regulatory landscape, it is essential that the structure and operations of the Commission be updated to enable the Commission to operate more efficiently and effectively, consistent with best practices.

Your Committee further finds that the Commission and its commissioners are required to fill three equally essential and nonexclusive roles. In their quasi-administrative capacity, commissioners interpret policy and apply technical expertise to the routines of rulemaking, implementation, and enforcement. In their quasi-legislative capacity, commissioners craft policy and inform and support policymaking by other bodies. In their quasi-judicial capacity, commissioners must make findings and rulings in the context of particular cases, in accordance with established law and legal procedures. Commissioners serving on the Commission therefore fill a unique role, and careful consideration and deliberation must be given to ensure that the Commission is able to operate in a collaborative, cohesive manner.

Your Committee finds that this measure is an important step to increase efficiency and effectiveness of the Commission. However, additional amendments are necessary to ensure improvements such as greater collaboration, better diversity of background and experience amongst commissioners, transparency, improved utilization of staff, and adequate training.

Accordingly, your Committee has amended this measure by:

- (1) Broadening the scope of the guiding principles of the Commission to encompass all regulated entities under the Commission's jurisdiction;



- (2) Requiring the Commission to establish a docket review and decision-making process that encourages collaboration;
- (3) Clarifying that a commissioner may attend a public hearing or meeting or work with staff by teleconference or videoconference in specific situations;
- (4) Requiring the Executive Officer, Chief Counsel, Chief of Policy and Research, and any individual employed as or in the role of a hearings officer of the Commission to annually file a disclosure of financial interests with the State Ethics Commission and requiring these disclosures to be public;
- (5) Clarifying the procedure for filling a vacancy that occurs during a commissioner's term;
- (6) Clarifying the composition of the Commission to ensure a diversity of knowledge, expertise, and backgrounds;
- (7) Clarifying the educational and training opportunities for commissioners and key staff;
- (8) Enabling commissioners to request and be provided with the services of a Commission staff attorney and a researcher to assist the requesting commissioner on commission-related work;
- (9) Clarifying that each commissioner, other than the chairperson, may appoint and employ a clerical or support staff person to assist with that commissioner's duties;
- (10) Specifying that the Chief Counsel of the Commission must devote full time to the Chief Counsel's duties and may not hold other public office, employment, or have any interest in a public utility while serving as Chief Counsel;
- (11) Clarifying that the Executive Officer of the Commission shall not be involved in the development of policy or in any decision making for the Commission;



- (12) Updating the contents of the requested management audit;
- (13) Specifying that the Governor shall nominate the two additional commissioners to the Commission beginning on Opening Day of the 2018 Regular Session of the Legislature, and requiring the Commission to be comprised of five commissioners who reflect the requisite diversity of background, experience, gender, and residency, by July 1, 2018;
- (14) Inserting an effective date of July 1, 2050, to encourage further discussion; provided that the increase in commissioners to the Commission shall take effect January 1, 2018;
- (15) Updating the purpose section; and
- (16) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee notes that this amended measure is a work in progress and additional discussion may be warranted to ensure that the Commission operates as efficiently and effectively as possible. For example, this amended measure clarifies the role of the Executive Officer, who serves in a statutorily-designated administrative capacity, as well as the Chief Counsel. Your Committee notes that further discussion may be needed to determine to what extent, if any, the commissioners may amend such statutorily determined roles should they desire to do so.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 382, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 382, S.D. 1, and be referred to your Committee on Ways and Means.



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

Rosalyn H Baker

ROSALYN H. BAKER, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* <i>SB382</i>	Committee Referral: <i>CPH, NAM</i>	Date: <i>2/14/17</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
BAKER, Rosalyn H. (C)	/			
NISHIHARA, Clarence K. (VC)	/			
CHANG, Stanley	/	/		
ESPERO, Will				/
IHARA, Jr., Les		/		
KIDANI, Michelle N.	/			
RUDERMAN, Russell E.				/
TOTAL	3	2		2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center;"><i>Clarence K. Nishihara</i></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