

STAND. COM. REP. NO.

2434

Honolulu, Hawaii

FEB 16 2018

RE: S.B. No. 2649
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 2649 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 require open
deliberation of the adjudicatory functions of the Public Utilities
Commission.

Your Committee received testimony in opposition to this
measure from the Public Utilities Commission. Your Committee
received comments on this measure from the Division of Consumer
Advocacy of the Department of Commerce and Consumer Affairs and
Office of Information Practices.

Your Committee finds that the State's Sunshine Law, codified
as part I of chapter 92, Hawaii Revised Statutes, contains an
exemption for a board's adjudicatory functions, except for the
Land Use Commission, whose adjudicatory functions remain subject
to the open meeting requirements of the Sunshine Law. Under
existing law, this Sunshine Law exemption covers the Public
Utilities Commission when it hears contested cases, or otherwise
serves in a quasi-judicial role. Your Committee notes that the
Public Utilities Commission also has non-adjudicatory functions



and that those non-adjudicatory functions are properly subject to the Sunshine Law.

Your Committee further finds that this measure requires open deliberation of the adjudicatory functions of the Public Utilities Commission. However, it is not your Committee's intent to require the Public Utilities Commission to follow the Sunshine Law for its quasi-judicial hearings and its general adjudicatory functions, as your Committee has heard concerns that this requirement could increase the Commission's administrative workload and costs. Accordingly, a clarifying amendment to this measure is needed.

Your Committee also notes that it is appropriate to place this clarifying amendment within chapter 269, Hawaii Revised Statutes, relating to the Public Utilities Commission, rather than within the Sunshine Law. This will avoid any potential inference that because the non-adjudicatory functions of one board -- the Public Utilities Commission -- are specifically made subject to the Sunshine Law, other boards' non-adjudicatory functions would therefore be considered exempt from the Sunshine Law, as such an inference would not reflect your Committee's intent.

Your Committee has amended this measure by:

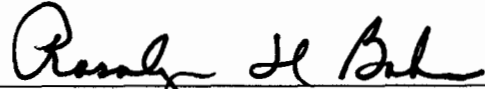
- (1) Deleting language that amended the State's Sunshine Law to require open deliberation of the adjudicatory functions of the Public Utilities Commission;
- (2) Specifying within chapter 269, Hawaii Revised Statutes, that the adjudicatory functions of the Public Utilities Commission are exempt from the Sunshine Law, while the Commission's non-adjudicatory functions are subject to the Sunshine Law; and
- (3) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.

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. 2649, as amended herein, and recommends that it pass Second Reading in the form attached hereto



as S.B. No. 2649, S.D. 1, and be referred to your Committee on Judiciary.

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



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.:* <div style="font-size: 1.2em; font-family: cursive;">SB 2649</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">CPH, JDC</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2/13/18</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 type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
TOKUDA, Jill N. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will				/
IHARA, Jr., Les		/		
NISHIHARA, Clarence K.				/
RUDERMAN, Russell E.			/	
TOTAL	3	1	1	2
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;">jm</div>				
<div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <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: 0.8em; margin-top: 5px;"> <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