

Honolulu, Hawaii

FEB 05 2025

RE: S.B. No. 371
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committees on Energy and Intergovernmental Affairs and Public Safety and Military Affairs, to which was referred S.B. No. 371 entitled:

"A BILL FOR AN ACT RELATING TO PROPERTY DAMAGE OF CRITICAL INFRASTRUCTURE FACILITIES,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish the offense of criminal property damage to critical infrastructure facilities in the first and second degree; and
- (2) Add the commitment of the offense of criminal damage of critical infrastructure facilities that causes the death of another person to the offense of manslaughter.

Your Committees received testimony in support of this measure from the Department of the Prosecuting Attorney of Maui County, Hawaiian Electric, and one individual.

Your Committees received comments on this measure from the Department of the Attorney General.

Your Committees find that the increasing reliance on the electrical grid to provide power for essential services, such as



respiratory devices, temperature control, and emergency response, makes the State more vulnerable to any criminal act that damages electrical infrastructure facilities. Your Committees recognize that existing law regarding the offenses against property rights does not completely address offenders who intentionally damage electrical infrastructure facilities where the damage results in a widespread impact on the community. This measure will therefore bolster protection of critical infrastructure and deter malicious actors.

According to testimony received by your Committees, lowering the state of mind to reckless or negligent regarding the extent of damage to a critical infrastructure facility will make it less likely for offenders to avoid prosecution by asserting that they did not foresee the full impact of their actions. These amendments would also make the offense more consistent with other offenses under chapter 708, Hawaii Revised Statutes. Your Committees further recognize that there are additional critical infrastructure systems besides electrical power delivery systems, such as water supply systems, that are critical to public health, safety, security, and the overall functioning of society, that are not covered under the heightened protections of this measure, in its current form. Amendments to this measure are therefore necessary to address these concerns.

Accordingly, your Committees have amended this measure by:

- (1) Clarifying that a person commits the offense of criminal property damage of a critical infrastructure facility in the first degree if the person intentionally or knowingly damages any critical infrastructure facility without the owner or operator's consent and:
 - (A) Recklessly or negligently causes damage in an amount exceeding \$20,000 and recklessly or negligently causes substantial impairment of the critical infrastructure facility; or
 - (B) Knowingly uses a firearm, drone, or explosive weapon in the commission of the offense and recklessly or negligently causes substantial impairment of the critical infrastructure facility;



- (2) Clarifying that a person commits the offense of criminal property damage of a critical infrastructure facility in the second degree if the person intentionally or knowingly damages any critical infrastructure facility without the owner or operator's consent, and recklessly or negligently causes substantial impairment to the critical infrastructure facility;
- (3) Amending the definition of "critical infrastructure facility" to mean "critical infrastructure" as defined in section 708-890, Hawaii Revised Statutes, which includes gas and oil production, storage, and delivery systems; water supply systems; telecommunications networks; finance and banking systems; emergency services; transportation systems and services; and government operations that provide essential services to the public;
- (4) Deleting the definition of "cyber attack";
- (5) Deleting the definition of "extended power outage" and inserting a definition for "substantial impairment" to mean impairment of a critical infrastructure facility that lasts for two hours or more, or affects one thousand or more retail customers of the affected critical infrastructure facility; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

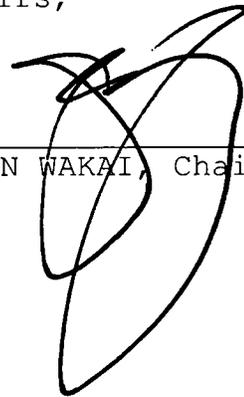
As affirmed by the records of votes of the members of your Committees on Energy and Intergovernmental Affairs and Public Safety and Military Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 371, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 371, S.D. 1, and be referred to your Committee on Judiciary.



Respectfully submitted on
behalf of the members of the
Committees on Energy and
Intergovernmental Affairs and
Public Safety and Military
Affairs,



BRANDON J.C. ELEFANTE, Chair



GLENN WAKAI, Chair



