

HB 2831 HD2

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NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY

An Attached Agency of the Department of Business, Economic Development & Tourism, State of Hawaii



Statement of
RON BAIRD

CHIEF EXECUTIVE OFFICER

Natural Energy Laboratory of Hawaii Authority

before the

SENATE ECONOMIC DEVELOPMENT AND TECHNOLOGY COMMITTEE

March 8, 2010

1:15 p.m.

State Capitol Conference Room 016

LATE

in consideration of

House Bill 2831 HD2

RELATING TO EQUITY SECURITIES

Chair Fukunaga, Vice-Chair Baker, and members of the Senate Economic Development and Technology Committee, I am Ron Baird Chief Executive Officer of the Natural Energy Laboratory of Hawaii Authority, located in Kailua-Kona on the great island of Hawaii.

HB 2831 HD2 would allow NELHA to acquire, hold, and sell qualified securities subject to certain conditions and would allow NELHA to accept donations of money and/or services.

NELHA's statutory conditions presently do not specifically state it can hold equity securities such as stocks, warrants, options, or instruments convertible into equity securities. This provision is viewed as necessary to conducting NELHA's business activities. There have been several past occasions when tenants conveyed equity to NELHA in payment of accounts owed NELHA. NELHA then sold the shares to recoup its expenses. Recently, however, our attorney general has opined that since NELHA does not have this statutory authority to hold equity securities, it could be sued if it did accept such securities.

Sopogy, builder of an exciting solar thermal project at NELHA agreed to, as part of the consideration for allowing it to site at NELHA, convey warrants convertible into stock. Should that company successfully become public, NELHA would be able to dispose of the stock and gain important revenues to help in its self-sufficiency effort.

Very recently, a venture capital firm from Pennsylvania, representing European investors, visited NELHA and expressed its interest in financing the construction of a 1 Megawatt OTEC plant, using NELHA's pump station that was originally built for that purpose. The firm intends to take the company it is financing public in Europe later this year. If that company were the successful bidder (in response to NELHA's RFP to have an OTEC plant built), the capital firm has expressed its willingness to convey an equity interest in the company to NELHA.

A water bottling tenant is currently experiencing some difficulties in its business and is in the midst of a capital raise. NELHA is pursuing the company to issue a promissory note to NELHA for its past due lease and water allocations --- which the company has agreed in principle to do. The company has offered an equity interest to NELHA as additional consideration as regards the amounts due.

Each one of these instances would result in economic benefit to the state and NELHA. The NELHA Board, according to the proposed language, would have to approve the acceptance of equity by a majority affirmative vote. This means each case would be considered individually by the Board as to the potential benefit that might come from it. NELHA requests the committee to amend this bill in one particular instance: as it reads currently, the board of NELHA is to annually report any such transactions. The Board does not issue an annual report, NELHA does, therefore it would be convenient for the bill to read "The acquisition and sale of qualified securities shall be detailed in the NELHA annual report."

NELHA strongly supports passage of this Bill into an Act as NELHA believes its passage and implementation will make a significant positive economic impact on the future of NELHA and its well-being.

Thank you very much for your consideration of my testimony and if you have any questions, I would be happy to take and answer them now to the best of my ability.