

# SB2776

Measure Title:	RELATING TO THE PUBLIC UTILITIES COMMISSION.
Report Title:	Public Utilities Commission; Commissioners; Neighbor Island Resident; Per Diem; Teleconference; Videoconference
Description:	Requires at least one of the three members of the public utilities commission to be a resident of a county other than the city and county of Honolulu and receive per diem compensation. Allows a commissioner to attend by teleconference or videoconference a public hearing of the commission, including allowing a commissioner who resides on an island other than Oahu to attend a public hearing of the commission held on Oahu and a commissioner residing on the island of Oahu to attend a public hearing of the commission held on an island other than Oahu, by teleconference or videoconference.
Companion:	<a href="#">HB1851</a>
Package:	None
Current Referral:	CPH/JDL, WAM
Introducer(s):	BAKER, ENGLISH, KEITH-AGARAN, KIDANI, RUDERMAN, Ihara, Inouye, Nishihara



DAVID Y. IGE  
GOVERNOR

SHAN S. TSUTSUI  
LT. GOVERNOR

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TO THE SENATE COMMITTEES ON COMMERCE, CONSUMER PROTECTION, AND  
HEALTH AND JUDICIARY AND LABOR

THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2016

FRIDAY, FEBRUARY 12, 2016  
9:00 A.M.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR, DIVISION OF  
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER  
AFFAIRS, TO THE HONORABLE ROSALYN H. BAKER AND THE HONORABLE  
GILBERT S. C. KEITH-AGARAN, CHAIRS, AND MEMBERS OF THE COMMITTEES

SENATE BILL NO. 2776 - RELATING TO THE PUBLIC UTILITIES COMMISSION

**DESCRIPTION:**

This measure proposes to require at least one of the three members of the Public Utilities Commission ("Commission") to be a resident of a county other than the City and County of Honolulu and receive per diem compensation. This measure also proposes to allow a commissioner to attend by teleconference or videoconference a public hearing of the commission, including allowing a commissioner who resides on an island other than Oahu and a commissioner residing on the island of Oahu to attend a public hearing of the commission held on an island other than Oahu, by teleconference or videoconference.

**POSITION:**

The Division of Consumer Advocacy ("Consumer Advocate") supports the intent of this bill.

COMMENTS:

The Commission is responsible for protecting the interests of consumers and regulated utilities on all islands. The decisions of the Commission, especially in the energy field, will have a profound effect upon this state for years to come. It is, therefore, of utmost importance to have the most qualified individuals, irrespective of where they reside, serve as commissioners on the Commission. The Consumer Advocate recognizes that a commissioner who resides on a neighbor island could provide an important perspective to the decision-making process of the Commission. An individual's island of residence should be one criteria to determine that individual's qualification to serve as a commissioner. To make it a requirement that one commissioner reside on a neighbor island could eliminate from consideration other more qualified individuals based on this residency requirement.

The Consumer Advocate would also point out that where an individual previously lived and grew up may be equally important to that individual's perspective as to where that individual currently resides. In other words, someone who grew up on the neighbor islands, but who currently resides on Oahu, may have a closer affinity to the neighbor islands than someone who recently moved there. The Consumer Advocate therefore supports the intent of that part of the legislation that proposes to require one commissioner of the three to reside on a neighbor island. The Consumer Advocate suggests a modification to this bill to change the neighbor island residency requirement to a factor to be considered in selecting all commissioners.

In order to encourage neighbor island residents to serve on the Commission, neighbor island commissioners should not be financially disadvantaged compared to their Oahu counterparts. The Consumer Advocate therefore supports the provision in this legislation that requires a per diem compensation to neighbor island commissioners.

The Consumer Advocate further supports the provision in this legislation that allows for teleconference or videoconference participation by commissioners to attend public hearings. The Consumer Advocate suggests that the decision to allow teleconference or videoconference participation be left to the discretion of the Chair of the Commission, because there may be certain instances where teleconference or videoconference is impractical or inappropriate.

Thank you for this opportunity to testify.

TESTIMONY OF RANDY IWASE  
CHAIR, PUBLIC UTILITIES COMMISSION  
STATE OF HAWAII  
TO THE  
SENATE COMMITTEES ON  
COMMERCE AND CONSUMER PROTECTION  
&  
JUDICIARY AND LABOR

February 12, 2016  
9:00 AM

**MEASURE:** S.B. No. 2776

**TITLE:** RELATING TO THE PUBLIC UTILITIES COMMISSION

Chair Baker, Chair Keith-Agaran, and Members of the Committees:

**DESCRIPTION:**

This measure would require at least one member of the Public Utilities Commission (“Commission”) to be a resident of a county other than the city and county of Honolulu and would provide that commissioner with an unspecified per diem compensation “for the days on which actual service is rendered.” This measure would also allow commissioners to attend public hearings held on islands that they do not reside by teleconference or video conference.

**POSITION:**

The Commission offers the following comments for the Committee’s consideration.

**COMMENTS:**

The Commission is presently composed of only three (“3”) members. Given its limited size, the Governor should be given wide discretion in appointing qualified members. That discretion is recognized and provided for in our present statute.

Regarding the option to allow a commissioner to attend public hearings held on islands that they do not reside via teleconference or video conference- the Commission appreciates the intent of providing the commission with further options when it conducts

hearings. However, there are certain hearings where all three commissioners should always be physically present. For example, the Commission believes that all three commissioners should always be physically present at contested case hearings. The Commission also notes that establishing the ability for commissioners to attend hearings via teleconference and/or video conference could be costly, particularly if the service employed would afford a level of functionality and reliability similar to that which could be expected if the commissioner were physically present.

Finally, the Commission notes that providing per diem compensation for commissioners who are residents of a county other than the city and county of Honolulu is fair given the costs associated with working outside one's county of residence.

Thank you for the opportunity to testify on this measure.

**SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH**

**THE HONORABLE ROSALYN H. BAKER, CHAIR  
THE HONORABLE MICHELLE N. KIDANI, VICE CHAIR**

**SENATE COMMITTEE ON JUDICIARY AND LABOR**

**THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR  
THE HONORABLE MAILE S.L. SHIMABUKURO, VICE CHAIR**

**SENATE BILL NO. 2776**

**February 12, 2016, 9:00 a.m., Conference Room 016**

**Testimony In Support**

**By**

**Roy Catalani, Vice President of Strategic Initiatives and External Affairs  
Sandra Y.B. Hoshida, Manager of Government Affairs  
Young Brothers, Limited**

Chair Baker, Vice Chair Kidani, Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Senate Committees on Commerce, Consumer Protection, and Health and on Judiciary and Labor:

**Young Brothers, Limited (*Young Brothers*) supports Senate Bill No. 2776 (SB2776).**

SB2776 proposes to require that at least one of the three members of the Public Utilities Commission (*PUC*) shall be a resident of a county other than the City and County of Honolulu and shall receive per diem compensation. The measure seeks to ensure that “all areas of the State are adequately represented in the commission.” Provisions for per diem compensation and for attendance of public hearings via teleconference or videoconference would facilitate a Neighbor Island commissioner’s participation in PUC functions.

While all PUC commissioners are cognizant of their duties and responsibilities, a Neighbor Island member would fully appreciate the economic and community needs unique to its fellow residents. Young Brothers’ water transportation service provides an example of the importance of appreciating Neighbor Island communities and their special needs. Young Brothers carries to the Neighbor Islands most of the goods coming into the State through the Port of Honolulu. Timely, regular, and frequent sailings are essential to support the just-in-time economy of Neighbor Island merchants. With many doing away with costly warehouses to store inventory, many Neighbor Island businesses rely on timely, regular, and frequent arrival of merchandise aboard Young Brothers’ barges to stock shelves. Having a PUC commissioner who is sensitive to this fragile economic regime would be one way to enhance the PUC’s fulfillment of its mission.

Thank you for this opportunity to testify.

Senate Committee on Commerce, Consumer Protection and Health  
Senate Committee on Judiciary and Labor  
Senate Bill 2776, Relating to the Public Utilities Commission  
Testimony of Hermina Morita

Aloha Chair Baker, Chair Keith-Agaran and Members of the Committees:

I hope my experience as the past Chair of the Hawaii Public Utilities Commission (PUC) will give some insight on why this measure should be carefully considered to avoid inadvertent consequences. While I do support the recognition of accommodating neighbor island Commissioner appointments to PUC through telecommuting, video conferencing and per diem payments, I am concerned about explicit language to require a neighbor island appointment which I will address in my second point and the specificity in which telecommuting, video conferencing and participation is to occur in statute.

First of all, during my tenure as Chair of the PUC, I was one of two Commissioners who resided outside the island of Oahu in the full-time 3-Commissioner agency. It cost me close to \$30,000 per year out of pocket to commute from my home on Kauai to Oahu, an Oahu apartment and the need for a second car. I had the good fortune of being able to accept the appointment because my financial needs at that time were modest. But this issue emphasizes the financial burden placed on highly qualified candidates to participate in appointed, full-time positions if they do not reside in the City & County of Honolulu and choose not to relocate to Oahu for a number of good reasons. While not unique to the PUC, careful consideration should be given to our being an island State and how to encourage greater public service participation from the neighbor islands in these appointed, full-time positions as a matter of general State policy.

Secondly, with regard to requiring that one of the three Commissioners reside on a neighbor island, I have concerns such language may create inadvertent consequences. While I agree that a geographically well- rounded Commission would be an ideal, I think such should be stated as a preference rather than a requirement to ensure the best statewide pool of highly qualified candidates with the primary focus on quality and effective regulation in filling this six-year term commitment. I believe your roles as Senators, in the confirmation process of an appointee, can weigh heavy in meeting this preference and ideal when high qualified candidates for the neighbor island are available and willing.

Already the candidate pool is typically small given the specific professional qualifications in statute, the salary, workload and full-time requirement of the position. A law which requires a public financial disclosure filing may also be a further deterrent in attracting highly qualified candidates thus further limiting the pool of highly qualified applicants.

With regard to the use of telecommuting and video conferencing, perhaps the statute should be a broad policy to clearly allow such activity but leave the specificity to internal agency guidelines or rulemaking as to appropriate use and the procedures to allow such use in a variety of circumstances.

Thank you for allowing me to share my concerns with you.

Hermina Morita  
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