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"Char, Susan"  
[Redacted]  
06/04/2009 10:03 AM

To Cathy.Veillard@hawaii.gov  
cc  
bcc  
Subject RE: Legislative Bill: HB1316 HD2 SD1 CD1 RELATING TO TORTS. Comments Due: Friday, June 5, 2009

Thank you for the opportunity to submit comments on HB 1316, HD 2, SD 1, CD 1, Relating to Torts.

Hawaiian Electric Company, Inc. does not support this version of the bill.

For purposes of joint and several liability in highway cases, utility poles are considered part of the road design. Under current law, in highway motor vehicle accident cases involving utility poles, plaintiffs may sue Hawaiian Electric, other public utilities, state and/or county government, and the professionals that designed the highway upon which the pole is located. Under HB 1316, HD 2, SD 1, CD 1, design professionals could not be held jointly and severally liable for highway design unless the professional's negligence was 10% or more. That would shift the risk to Hawaiian Electric and the other defendants named above.

Because of the way joint and several liability works, defendants who have the ability to pay -- such as the government, public utilities and professionals -- are at risk to pay far more than any proportionate share of liability they may be assigned. Therefore, by limiting the design professionals' liability, HB 1316, HD2, SD1, CD 1 would effectively shift greater liability exposure in highway cases to the other so-called "deep pockets" -- including the public utilities. The added financial burden this bill would cause may also impact our ratepayers through higher rates.

Hawaiian Electric Company therefore does not support HB 1316, HD 2, SD 1, CD 1.

Susan M. Char  
Director, Government Relations  
Hawaiian Electric Company, Inc.  
[Redacted]

**From:** Christine.Hironaka@hawaii.gov [mailto:Christine.Hironaka@hawaii.gov] **On Behalf Of** Gov.Policy@hawaii.gov

**Sent:** Thursday, May 21, 2009 12:01 PM

**To:** Cathy.Veillard@hawaii.gov

**Cc:** Ezra.Bendiner@hawaii.gov

**Subject:** Legislative Bill: HB1316 HD2 SD1 CD1 RELATING TO TORTS. Comments Due: Friday, June 5, 2009

**Importance:** High

Aloha!