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A BILL FOR AN ACT

RELATING TO ENERGY EFFICIENCY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The purpose of this Act is to clarify chapter  
2 269, part VII, Hawaii Revised Statutes, relating to the  
3 administration and use of moneys supporting energy-efficiency and  
4 demand-side management programs and services.

5 SECTION 2. Chapter 269, part VII, Hawaii Revised Statutes,  
6 is amended to read as follows:

7 " ~~[f]~~ **PART VII. PUBLIC BENEFITS** ~~[FUND]~~ **FEE**

8 ~~[f]~~ **§269-121** ~~[f]~~ **Public benefits** ~~[fund]~~ **fee authorization.**

9 (a) The public utilities commission, by order or rule, may  
10 ~~[redirect]~~ require that all or a portion of the ~~[funds]~~ moneys  
11 collected by Hawaii's electric utilities from its ratepayers  
12 through ~~[the current]~~ a demand-side management surcharge ~~[by~~  
13 ~~Hawaii's electric utilities into a public benefits fund that may~~  
14 ~~be established by the public utilities commission.]~~ be  
15 transferred to a third-party administrator appointed by the  
16 public utilities commission. Such moneys transferred shall be  
17 known as the public benefits fee.

18 (b) ~~[If the public utilities commission establishes a~~  
19 ~~public benefits fund, the surcharge shall be known as the public~~  
20 ~~benefits fee. Moneys in the fund shall be ratepayer funds that]~~

1 The public benefits fee shall be used to support energy-  
2 efficiency and demand-side management programs and services,  
3 subject to the review and approval of the public utilities  
4 commission. These moneys shall not be available to meet any  
5 current or past general obligations of the State~~(-)~~, provided  
6 that the State may participate in any energy-efficiency or  
7 demand-side management programs and services on the same basis as  
8 any other electric consumer.

9 (c) Nothing in this section shall create or be construed to  
10 cause the public benefits fee to be considered state or public  
11 moneys subject to appropriation by the legislature or be required  
12 to be deposited into the state treasury.

13 ~~[f]§269-122[f]~~ **Public benefits [fund] fee administrator;**  
14 **establishment.** (a) ~~[If the]~~ The public utilities commission  
15 ~~[establishes a public benefits fund, the public utilities~~  
16 ~~commission shall appoint]~~ may contract with a [fund] third-party  
17 administrator, to be known as the public benefits fee  
18 administrator, on such terms and conditions that it deems  
19 necessary to manage the public benefits fee moneys collected  
20 pursuant to section 269-121. The public benefits fee  
21 administrator shall operate and [manage] administer any programs  
22 established under section 269-121. The [fund] administrator  
23 shall not expend more than ten per cent of the [fund] public  
24 benefits fee moneys in any fiscal year, or other reasonable

1 percentage determined by the public utilities commission, for  
2 administration of the programs established under section 269-121.

3 (b) The [~~fund~~] public benefits fee administrator shall be  
4 subject to regulation by the public utilities commission,  
5 [~~including pursuant to~~] under any provision applicable to a  
6 public utility in sections 269-7, 269-8, 269-8.2, 269-8.5, 269-9,  
7 269-10, 269-13, 269-15, 269-19.5, and 269-28, and shall report to  
8 the public utilities commission on a regular basis.

9 Notwithstanding any other provision of law to the contrary, the  
10 [~~fund~~] public benefits fee administrator shall not be an electric  
11 public utility or an electric public utility affiliate.

12 [~~{~~§269-123~~}~~] **Requirements for the public benefits** \_[~~fund~~]  
13 **fee administrator.** (a) Any [~~fund~~] public benefits fee  
14 administrator appointed pursuant to section 269-122 shall satisfy  
15 the qualification requirements established by the public  
16 utilities commission by rule or order. These requirements may  
17 include experience and expertise in:

18 (1) Energy-efficient and renewable energy technologies and  
19 methods; and

20 (2) Identifying, developing, administering, and  
21 implementing demand-side management and energy-  
22 efficiency programs.

23 (b) The [~~fund~~] public benefits fee administrator's duties  
24 and responsibilities shall be established by the public utilities  
25 commission by rule or order, and may include:

- 1 (1) Identifying, developing, administering, promoting,  
2 implementing, and evaluating programs, methods, and  
3 technologies that support energy-efficiency and demand-  
4 side management programs;
- 5 (2) Encouraging the continuance or improvement of  
6 efficiencies made in the production, delivery, and use  
7 of energy-efficiency and demand-side management  
8 programs and services;
- 9 (3) Using the energy-efficiency expertise and capabilities  
10 that have developed or may develop in the State and  
11 consulting with state agency experts;
- 12 (4) Promoting program initiatives, incentives, and market  
13 strategies that address the needs of persons facing the  
14 most significant barriers to participation;
- 15 (5) Promoting coordinated program delivery, including  
16 coordination with electric public utilities regarding  
17 the delivery of low-income home energy assistance,  
18 other demand-side management or energy-efficiency  
19 programs, and any utility programs;
- 20 (6) Consideration of innovative approaches to delivering  
21 demand-side management and energy-efficiency services,  
22 including strategies to encourage [~~third party~~] third-  
23 party financing and customer contributions to the cost  
24 of demand-side management and energy-efficiency  
25 services; and

1 (7) Submitting, to the public utilities commission for  
2 review and approval, a multi-year budget and planning  
3 cycle that promotes program improvement, program  
4 stability, and maturation of programs and delivery  
5 resources.

6 **[+]§269-124[+]** **Transitioning from utility demand-side**  
7 **management programs to the public benefits [~~fund~~] fee.** If the  
8 public utilities commission establishes a public benefits [~~fund~~]  
9 fee pursuant to section 269-121, the public utilities commission  
10 shall:

- 11 (1) Develop a transition plan that ensures that:
- 12 (A) Utility demand-side management programs are
  - 13 continued, to the extent practicable, until the
  - 14 transition date; and
  - 15 (B) The [~~fund~~] public benefits fee administrator will
  - 16 be able to provide demand-side management and
  - 17 energy-efficiency services on the transition date;
- 18 (2) Encourage programs that allow all retail electricity
- 19 customers, including state and county agencies,
  - 20 regardless of the retail electricity or gas provider,
  - 21 to have an opportunity to participate in and benefit
  - 22 from a comprehensive set of cost-effective demand-side
  - 23 management and energy-efficiency programs and
  - 24 initiatives designed to overcome barriers to
  - 25 participation;

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- 1           (3) Encourage programs, measures, and delivery mechanisms  
2           that reasonably reflect current and projected utility  
3           integrated resource planning, market conditions,  
4           technological options, and environmental benefits;
- 5           (4) Facilitate the delivery of these programs as rapidly as  
6           possible, taking into consideration the need for these  
7           services and cost-effective delivery mechanisms;
- 8           (5) Consider the unique geographic location of the State  
9           and the high costs of energy in developing programs  
10          that will promote technologies to advance energy  
11          efficiency and use of renewable energy and permit the  
12          State to take advantage of activities undertaken in  
13          other states, including the opportunity for multi-state  
14          programs;
- 15          (6) Require the [~~fund~~] public benefits fee administrator  
16          appointed by the public utilities commission under  
17          section 269-122 to deliver programs in an effective,  
18          efficient, timely, and competent manner and to meet  
19          standards that are consistent with state policy and  
20          public utilities commission policy; and
- 21          (7) Before January 2, 2008, and every three years  
22          thereafter, require verification by an independent  
23          auditor of the reported energy and capacity savings and  
24          incremental renewable energy production savings  
25          associated with the programs delivered by the [~~fund~~]

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1 public benefits fee administrator appointed by the  
2 public utilities commission to deliver energy-  
3 efficiency and demand-side management programs under  
4 section 269-121."

5 SECTION 7. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 8. This Act shall take effect upon its approval.

8  
9 INTRODUCED BY: Calvin H. Long

10 BY REQUEST

JAN 22 2008

**Report Title:**

Energy Efficiency; Public Benefits

**Description:**

Clarifies provisions of chapter 269, Part VII, Hawaii Revised Statutes, relating to the administration and use of moneys supporting energy-efficiency and demand-side management programs and services.



JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO ENERGY EFFICIENCY.

PURPOSE: The purpose of this bill is to clarify the provisions of chapter 269, part VII, Hawaii Revised Statutes, relating to the administration and use of moneys supporting energy-efficiency and demand-side management programs and services.

MEANS: Amend part VII of chapter 269, Hawaii Revised Statutes.

JUSTIFICATION: The bill seeks to make consistent the wording of chapter 269, part VII, Hawaii Revised Statutes, with the processes and procedures applicable to third-party administration of energy-efficiency and demand-side management programs and services. As presently worded, part VII can be inaccurately interpreted to mean that, should the Public Utilities Commission establish a public benefits fund, moneys collected by the public utilities through current demand-side management surcharges will be transferred to the Public Utilities Commission, which would then possess and expend those moneys, subject to legislative appropriation.

In actuality, under a third-party administrator structure, the third-party administrator essentially will act as public utilities currently do by collecting moneys and expending them consistent with approved energy efficiency and demand-side management programs and services. The bill proposes to call these moneys public benefits fees and make explicit that the public benefits fees are not for deposit into the state treasury nor subject to appropriation by the legislature.

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Just as it approved the collection of current demand-side management surcharges, the Public Utilities Commission will require the public utilities to transfer the demand-side management surcharge moneys to the third-party administrator for going-forward collection of public benefits fees and administration of the programs.

Additionally, the bill proposes to clarify that the State may participate in any energy efficiency and demand-side management programs and services offered by the third-party administrator. As presently written, section 269-121, Hawaii Revised Statutes, could be interpreted so as not to allow state agencies to participate in such programs or derive any benefit from them.

Impact on the public: This bill will allow the state agencies to participate in the energy efficiency and demand-side management programs and services as would any other customer of the electric public utilities, and clarify the law with respect to the processes and procedures applicable to administration of the moneys collected and disbursed for these programs and services.

Impact on the department and other agencies: This bill will assist the Public Utilities Commission and all state agencies in the overall effort to participate in the "greening" of state government.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: BUF-901

OTHER AFFECTED AGENCIES: All, to the extent of participation in the demand-side and energy efficiency programs.

EFFECTIVE DATE: Upon approval.