



GOV. MSG. NO. 760

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

May 28, 2008

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 28, 2008, the following bill was signed into law:

SB3001 SD2 HD2 CD1

A BILL FOR AN ACT RELATING TO ENERGY  
EFFICIENCY.  
(ACT 118)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

3 11 13 6177

**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  
4 and demand-side management programs and services.

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

7 " ~~[+]PART VII. PUBLIC BENEFITS [FUND+] FEE~~  
8 ~~[+]§269-121[+] 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 contracted by the  
16 public utilities commission. The moneys transferred shall be  
17 known as the public benefits fee.



1           (b) ~~[If the public utilities commission establishes a~~  
2 ~~public benefits fund, the surcharge shall be known as the public~~  
3 ~~benefits fee. Moneys in the fund shall be ratepayer funds that]~~  
4 The public benefits fee shall be used to support energy-  
5 efficiency and demand-side management programs and services,  
6 subject to the review and approval of the public utilities  
7 commission. These moneys shall not be available to meet any  
8 current or past general obligations of the State[-]; provided  
9 that the State may participate in any energy-efficiency or  
10 demand-side management programs and services on the same basis  
11 as any other electric consumer.

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

16           [+]§269-122[+] **Public benefits [fund] fee administrator;**  
17 **establishment.** (a) The public utilities commission  
18 [establishes a public benefits fund, the public utilities  
19 commission shall appoint a fund] may contract with a third-party  
20 administrator, to operate and manage any programs established  
21 under section 269-121. The administrator shall not be deemed to  
22 be a "governmental body" as defined in section 103D-104;



1 provided that all moneys transferred to the third-party  
2 administrator shall be comprised solely of public benefit fees  
3 collected pursuant to section 269-121. The [fund] administrator  
4 shall not expend more than ten per cent of the [fund] collected  
5 public benefits fees in any fiscal year, or other reasonable  
6 percentage determined by the public utilities commission, for  
7 administration of the programs established under section  
8 269-121.

9 (b) The [fund] public benefits fee administrator shall be  
10 subject to regulation by the public utilities commission[  
11 ~~including pursuant to~~] under any provision applicable to a  
12 public utility in sections 269-7, 269-8, 269-8.2, 269-8.5,  
13 269-9, 269-10, 269-13, 269-15, 269-19.5, and 269-28, and shall  
14 report to the public utilities commission on a regular basis.  
15 Notwithstanding any other provision of law to the contrary, the  
16 [fund] public benefits fee administrator shall not be an  
17 electric public utility or an electric public utility affiliate.

18 [-]§269-123[+] **Requirements for the public benefits [fund]**  
19 **fee administrator.** (a) Any [fund] public benefits fee  
20 administrator [~~appointed~~] contracted pursuant to section 269-122  
21 shall satisfy the qualification requirements established by the



1 public utilities commission by rule or order. These  
2 requirements may include experience and expertise in:

3 (1) Energy-efficient and renewable energy technologies and  
4 methods; and

5 (2) Identifying, developing, administering, and  
6 implementing demand-side management and energy-  
7 efficiency programs.

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

11 (1) Identifying, developing, administering, promoting,  
12 implementing, and evaluating programs, methods, and  
13 technologies that support energy-efficiency and  
14 demand-side management programs;

15 (2) Encouraging the continuance or improvement of  
16 efficiencies made in the production, delivery, and use  
17 of energy-efficiency and demand-side management  
18 programs and services;

19 (3) Using the energy-efficiency expertise and capabilities  
20 that have developed or may develop in the [State]  
21 state and consulting with state agency experts;



- 1 (4) Promoting program initiatives, incentives, and market  
2 strategies that address the needs of persons facing  
3 the most significant barriers to participation;
- 4 (5) Promoting coordinated program delivery, including  
5 coordination with electric public utilities regarding  
6 the delivery of low-income home energy assistance,  
7 other demand-side management or energy-efficiency  
8 programs, and any utility programs;
- 9 (6) Consideration of innovative approaches to delivering  
10 demand-side management and energy-efficiency services,  
11 including strategies to encourage [~~third party~~] third-  
12 party financing and customer contributions to the cost  
13 of demand-side management and energy-efficiency  
14 services; and
- 15 (7) Submitting, to the public utilities commission for  
16 review and approval, a multi-year budget and planning  
17 cycle that promotes program improvement, program  
18 stability, and maturation of programs and delivery  
19 resources.

20 [-] §269-124 [+] Transitioning from utility demand-side  
21 management programs to the public benefits [~~fund~~] fee. If the  
22 public utilities commission establishes a public benefits [~~fund~~]



1 fee pursuant to section 269-121, the public utilities commission  
2 shall:

3 (1) Develop a transition plan that ensures that:

4 (A) Utility demand-side management programs are  
5 continued, to the extent practicable, until the  
6 transition date; and

7 (B) The [~~fund~~] public benefits fee administrator will  
8 be able to provide demand-side management and  
9 energy-efficiency services on the transition  
10 date;

11 (2) Encourage programs that allow all retail electricity  
12 customers, including state and county agencies,  
13 regardless of the retail electricity or gas provider,  
14 to have an opportunity to participate in and benefit  
15 from a comprehensive set of cost-effective demand-side  
16 management and energy-efficiency programs and  
17 initiatives designed to overcome barriers to  
18 participation;

19 (3) Encourage programs, measures, and delivery mechanisms  
20 that reasonably reflect current and projected utility  
21 integrated resource planning, market conditions,  
22 technological options, and environmental benefits;



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





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

5           SECTION 3. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7           SECTION 4. This Act shall take effect on July 1, 2008.



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APPROVED this 28 day of MAY, 2008



GOVERNOR OF THE STATE OF HAWAII



