

JAN 22 2008

A BILL FOR AN ACT

RELATING TO PROPERTY OF PUBLIC UTILITIES.

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

1 SECTION 1. The legislature finds that it is vital to the
2 State's well-being that public utilities ensure that the property
3 they use in the provision of services to customers is maintained
4 at a certain prescribed level. The public utilities commission,
5 the entity charged by the legislature with responsibility over
6 the condition of public utilities and their property, must keep a
7 watchful eye so that the public interest in steady, reliable
8 utility service is served and preserved. Presently, state law
9 mandates that a public utility seek and secure an order from the
10 public utilities commission prior to the disposal or encumbrance
11 of property necessary or useful in performing its duties to the
12 public.

13 The legislature finds, however, that unusual, exigent
14 circumstances call for a public utility to come to the aid of a
15 customer in a sudden and time-sensitive manner. The legislature
16 further finds that these unusual, exigent situations sometimes
17 call for a public utility to transfer, assign, or otherwise
18 dispose of its property in order that a customer in distress can
19 return to normal operations.

1 The purpose of this Act is to provide public utilities the
2 authority to transfer, assign, or otherwise dispose of property
3 under exigent circumstances in order to aid a customer whose
4 operations have been disrupted due to these unforeseen events.

5 SECTION 2. Section 269-19, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§269-19 Merger and consolidation of public [utility**
8 **corporations.] utilities.** [~~No~~] (a) Except as provided in
9 subsection (b) of this section, no public utility [corporation]
10 shall sell, lease, assign, mortgage, or otherwise dispose of or
11 encumber the whole or any part of its road, line, plant, system,
12 or other property necessary or useful in the performance of its
13 duties to the public, or any franchise or permit, or any right
14 thereunder, nor by any means, directly or indirectly, merge or
15 consolidate with any other public utility [corporation] without
16 first having secured from the public utilities commission an
17 order authorizing it so to do. Every such sale, lease,
18 assignment, mortgage, disposition, encumbrance, merger, or
19 consolidation, made other than in accordance with the order of
20 the commission shall be void.

21 (b) A public utility, under circumstances that it deems
22 exigent and in its judgment require a response that rapidly
23 restores one of its customers to normal, or near normal,
24 operating status in order to prevent serious disruption of
25 essential public services, or avoid serious risk to public

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1 safety, or to mitigate severe economic losses to that customer,
2 may transfer, assign, or otherwise dispose of its property
3 without prior approval from the public utilities commission as
4 required in subsection (a); provided that in so doing, the public
5 utility does not unduly hinder or degrade the public utility's
6 operation with respect to its services or other customers, that
7 the public utility is duly compensated for its property, and that
8 the public utility reports in detail to the public utilities
9 commission within thirty days of any such action unless otherwise
10 approved by the public utilities commission for good cause
11 shown."

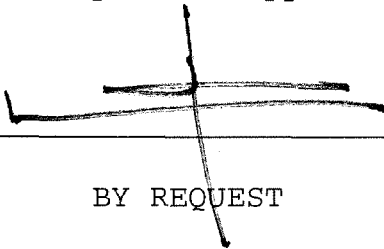
12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:


BY REQUEST

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Report Title:

Public Utilities; Property Transfers

Description:

Grants public utilities the authority to transfer, assign, or otherwise dispose of property, without prior approval from the Public Utilities Commission, under circumstances calling for timely, decisive action in order to aid a customer whose operations have been disrupted due to unforeseeable events.

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO PROPERTY OF PUBLIC UTILITIES.

PURPOSE: The purpose of this bill is to provide public utilities the authority to transfer, assign, or otherwise dispose of property, without prior approval from the Public Utilities Commission, under circumstances calling for timely, decisive action in order to aid a customer whose operations have been disrupted due to unforeseeable events.

MEANS: Amend section 269-19, Hawaii Revised Statutes.

JUSTIFICATION: This bill will allow for a public utility to transfer, assign, or otherwise dispose of its road, line, plant, system, or other property necessary or useful in performance of its duties as a public utility providing services to the public, prior to obtaining Public Utilities Commission authorization to do so, under limited circumstances. In the past, unusual events have occurred during which the public safety or essential services were at risk of serious disruption if a public utility customer, such as an airport, healthcare facilities, civil defense, among others, were not timely provided property essential in restoring normal, or near normal, operating status. There have also been unusual occurrences where a high risk of severe negative economic impact to a public utility customer could have developed if it were not restored to operating status within a relatively short period of time by the transfer of property from a public utility.

Under current law, public utilities must obtain authorization from the Public Utilities Commission prior to transfer,

assignment, encumbrance or other disposition of its property, a requirement which may add substantial time to the restoration process. This new section will give public utilities the flexibility, under circumstances they deem exigent, and in their judgment require rapid response, to come to the aid of their customers who are in need of equipment, or other property, to restore operations to normal, or near normal, functioning. This bill would also provide for restricting the public utility from a transfer of property, even under these exigent circumstances, when to do so would unduly hinder or degrade the public utility's operation with respect to its services or other customers. In addition, this bill provides that the public utility must be duly compensated by its customer for its property, and the public utility must report, in detail, to the Public Utilities Commission within thirty-days of any such action, unless otherwise approved by the Public Utilities Commission for good cause shown.

Impact on the public: This bill will relieve public utilities from having to obtain Public Utilities Commission authorization prior to a transfer, assignment, encumbrance, or other disposition of their property in situations where the public utility deems it necessary to restore its customer's operational status where exigency is prudently demanded. The public will be served by the rapid response to exigent circumstances by the public utility.

Impact on the department and other agencies: This bill will impact the Public Utilities Commission by necessitating its review of reports on the acts taken by public utilities in the transfer, assignment, encumbrance, or other disposition of their property in exigent, unusual circumstances negatively impacting their customers. Other agencies may benefit from a public utility's

actions in exigent circumstances
contemplated and addressed by this bill.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: BUF-901.

OTHER AFFECTED
AGENCIES: None, other than where another agency might
benefit from the public utility action in
exigent circumstances contemplated and
addressed by this bill.

EFFECTIVE DATE: Upon approval.