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# A BILL FOR AN ACT

RELATING TO ELECTRICITY PRODUCERS.

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

1 PART I

2 SECTION 1. Electricity in Hawaii is increasingly supplied  
3 by non-utility power generators that use a variety of both  
4 fossil fuel and renewable energy resources. Electric utilities  
5 acquire third-party supplied energy via power purchase  
6 agreements that establish a final price for energy supplied  
7 throughout the entire contract term, which typically lasts for  
8 twenty years. Negotiated prices in purchased power agreements  
9 are reviewed by the public utilities commission and the division  
10 of consumer advocacy of the department of commerce and consumer  
11 affairs, though the independent power producers' underlying cost  
12 data and associated assumptions are not typically disclosed to  
13 the commission and the division of consumer advocacy.

14 Complete access to underlying renewable energy project cost  
15 information, including cost support information and associated  
16 materials, would allow the commission and the division of  
17 consumer advocacy to better determine the reasonableness of  
18 proposed prices in the context of the local energy market,



1 independently track trends in renewable energy project  
2 development, and more readily compare independent power  
3 producers' projects. More specific, detailed contract  
4 information can fundamentally shift the way renewable energy  
5 project costs are currently set so that they move more closely  
6 in line with the actual costs of energy production and are free  
7 of the influence of volatile fuel oil prices. In addition, more  
8 open and clear contract pricing information could potentially  
9 improve the financing environment for non-utility energy  
10 developers, thus benefiting the entire State through lower  
11 renewable energy project financing costs.

12 The purpose of this part is to authorize the public  
13 utilities commission and the division of consumer advocacy to  
14 examine all records, projections, business documents, and other  
15 necessary information relating to the review by the commission  
16 and the division of consumer advocacy of power purchase  
17 agreements for the sale of electricity to a public utility.

18 SECTION 2. Chapter 269, Hawaii Revised Statutes, is  
19 amended by adding a new section to be appropriately designated  
20 and to read as follows:

21 **"§269- Power purchase agreements; records; confidential**  
22 **information.** The public utilities commission and the division



1 of consumer advocacy of the department of commerce and consumer  
2 affairs shall have the authority to examine all documents,  
3 ledgers, records, projections, contracts, or any other  
4 information and data pertaining to the development, financing,  
5 taxation, construction, or operations and maintenance of a  
6 project in any power purchase agreement that has been submitted  
7 to the commission and division of consumer advocacy for review  
8 or approval, as the commission and division of consumer advocacy  
9 deem necessary, including the information and data of any third-  
10 party electricity producer seeking to sell electricity to a  
11 public utility as defined within section 269-1; provided that  
12 this section shall be effective to the extent it is not  
13 inconsistent with applicable federal law. The commission and  
14 the division of consumer advocacy shall maintain the  
15 confidentiality of all information submitted under confidential  
16 seal and provided in accordance with this section."

17 PART II

18 SECTION 3. The legislature finds that electric public  
19 utilities provide an important and essential service to the  
20 State's citizens and businesses. As regulated utilities,  
21 electric companies have been granted a franchise by the State  
22 that results in the electric utilities having a monopoly over



1 the provision of service to customers in their service  
2 territories. In return, the utilities have agreed to be  
3 regulated by the public utilities commission and must serve all  
4 customers that meet the terms and conditions of receiving  
5 electrical service. The utilities' franchise agreements grant  
6 their monopolies, and only the legislature may, at any time,  
7 alter, amend, or repeal these agreements.

8       The legislature further finds that Hawaii's ratepayers have  
9 persistently paid the highest electricity rates in the nation.  
10 This hinders the State's economic growth and imposes a severe  
11 financial challenge on many families. The electric utilities'  
12 heavy reliance on oil-derived fuels is a leading cause of the  
13 State's high electricity rates. As a result, the State has  
14 established aggressive clean energy goals to replace expensive  
15 imported fuels with lower cost clean energy sources that are  
16 indigenous to Hawaii. To support the integration of new  
17 technologies, the State has also recognized that this transition  
18 will require upgrades to utilities' grid infrastructure and to  
19 traditional operating practices, which will occur over the next  
20 several decades.

21       The legislature further finds that Hawaii's ratepayers are  
22 highly frustrated with sustained high rates of electricity,



1 limited options to manage their utility bills, and a perceived  
2 lack of urgency by the utilities in addressing their needs.  
3 Under these conditions, in a competitive market, new companies  
4 would emerge to better serve their competitors' customers.

5 The legislature further finds that these conditions  
6 primarily apply to the State's investor-owned electric public  
7 utilities. The State's member-owned cooperative is accountable  
8 through periodic elections of its board of directors.

9 The legislature concludes that periodic performance review  
10 of franchise agreements held by the State's investor-owned  
11 electric public utilities is necessary to ensure that the public  
12 good is served and for an evolving electricity market.

13 Accordingly, the purpose of this part is to establish a  
14 legislative task force to review the State's franchises held by  
15 investor-owned electric public utilities.

16 SECTION 4. The Hawaii Revised Statutes is amended by  
17 adding a new chapter to be appropriately designated and to read  
18 as follows:

19 **"CHAPTER**

20 **LEGISLATIVE UTILITY REVIEW TASK FORCE**

21 **§ -1 Legislative utility review task force,**

22 **established.** (a) There is established the legislative utility



1 review task force. The task force shall review franchises held  
2 by investor-owned electric public utilities to ensure that these  
3 utilities are adequately providing services that serve the  
4 public.

5 (b) The task force shall be composed of the following  
6 members:

7 (1) The chair and vice chair of the standing committee of  
8 the senate whose subject matter relates to energy and  
9 environment, or their successor committee;

10 (2) The chair and vice chair of the standing committee of  
11 the house of representatives whose subject matter  
12 relates to energy and environmental protection, or  
13 their successor committee;

14 (3) The chair and vice chair of the standing committee of  
15 the senate whose subject matter relates to commerce  
16 and consumer protection, or their successor committee;  
17 and

18 (4) The chair and vice chair of the standing committee of  
19 the house of representatives whose subject matter  
20 relates to consumer protection and commerce, or their  
21 successor committee.



1           The chairs of the standing committees of both houses of the  
2 legislature whose subject matter relates to energy and the  
3 environment shall serve as the co-chairs of the task force.

4           (c) The focus of the review conducted by the task force  
5 shall be guided by a discussion framework and evaluation  
6 criteria to include, but not be limited to, the following topic  
7 areas:

8           (1) The future role of investor-owned electric public  
9 utilities in the State, including whether the function  
10 of these utilities should be limited to the provision  
11 of transmission and distribution services;

12           (2) The effectiveness of investor-owned electric public  
13 utilities in fulfilling their duties so as to serve  
14 the public interest, including the effectiveness of  
15 utility plans to reduce high electric rates and to  
16 serve the diverse needs of customers;

17           (3) The strategic plans and objectives of investor-owned  
18 electric public utilities to modernize the electric  
19 grid cost-effectively so as to serve the needs of all  
20 customers and to meet the State's energy goals; and

21           (4) The applicability and nature of the regulatory compact  
22 with respect to electric utilities in Hawaii in light



1 of industry changes and other relevant findings,  
2 including those findings related to the topic areas  
3 described in paragraphs (1), (2), and (3).

4 (d) The task force shall meet publicly for input and  
5 recommendations regarding franchises held by investor-owned  
6 electric public utilities.

7 (e) Where appropriate, the task force shall seek input  
8 from the public utilities commission and the consumer advocate.

9 (f) For purposes of this chapter, the powers granted to  
10 the task force are limited to legislative review and  
11 recommendation, and shall not duplicate the powers and duties of  
12 the public utilities commission as established pursuant to  
13 chapter 269.

14 (g) For purposes of this section "task force" means the  
15 legislative utility review task force."

16 PART III

17 SECTION 5. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2030.





**Report Title:**

Power Purchase Agreements; Electric Utilities; Franchise; Task Force

**Description:**

Authorizes the Public Utilities Commission and the Consumer Advocate to examine all documents and other data when reviewing power purchase agreements. Establishes the Legislative Utility Review Task Force to review franchises held by investor-owned electric utilities. Effective July 1, 2030. (SB1043 HD1 PROPOSED)

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