
A BILL FOR AN ACT

RELATING TO THE PUBLIC UTILITIES COMMISSION.

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

1 SECTION 1. The legislature finds that the public utilities
2 commission is undergoing a major transition due to increased
3 work complexity and program responsibilities, particularly in
4 the area of energy regulation. To ensure that the mission of
5 the public utilities commission is adequately supported, the
6 commission should transition from its current administrative
7 status within the department of budget and finance to be a semi-
8 autonomous agency that is administratively attached to the
9 department of commerce and consumer affairs, which can provide
10 the commission with the additional administrative support and
11 resources it needs.

12 The legislature further finds that the duties and workload
13 of the chairperson and commissioners have significantly
14 increased in recent years in a rapidly changing regulatory
15 environment. The legislature finds an increase in compensation
16 will ensure that the salaries of the chairperson and
17 commissioners remain competitive with other states' public
18 utilities commissions.



1 The legislature additionally finds that the commission's
2 internal management capacity needs to be updated. The
3 chairperson of the commission is in need of an executive officer
4 to assist with managing the operations of the commission.
5 Converting the position of chief administrator to an executive
6 officer to oversee the management and recruitment of personnel,
7 budget planning and implementation, strategic planning and
8 implementation, procurement and contract administration, and
9 implementation of administrative programs and projects will
10 enable the chairperson of the commission to focus on the growing
11 number and increasingly technical complexity of issues brought
12 before the commission. Also, to further support the commission
13 in achieving its transition to a semi-autonomous agency, this
14 measure enables the commission to establish a fiscal officer and
15 a personnel officer position.

16 The legislature also finds that the division of consumer
17 advocacy of the department of commerce and consumer affairs
18 protects and advances the interests of Hawaii's consumers of
19 regulated public utilities. The executive director and staff
20 members of the division of consumer advocacy attend public
21 hearings held by the public utilities commission to get input
22 from the public, which helps them to better understand the



1 consumer's perspective on utility services and rates. Because
2 this understanding is an integral part of the division's work,
3 the legislature concludes that the executive director of the
4 division of consumer advocacy, rather than the director of
5 commerce and consumer affairs, should be the consumer advocate
6 in hearings before the public utilities commission.

7 The purpose of this Act is to adequately support the
8 mission of the public utilities commission, ensure the efficient
9 operation of the public utilities commission, and ensure that
10 important decisions relating to public utilities continue to be
11 made in the public interest by:

12 (1) Specifying that the public utilities commission is
13 transferred from its administrative placement within
14 the department of budget and finance to be a semi-
15 autonomous agency that is administratively attached to
16 the department of commerce and consumer affairs, which
17 can provide the commission with the additional
18 administrative support resources it needs;

19 (2) Increasing the compensation of the chairperson and
20 commissioners of the public utilities commission;

21 (3) Clarifying that notwithstanding section 26-35, Hawaii
22 Revised Statutes, the public utilities commission has



1 authority concerning standard administrative
2 practices, including operational expenditures and the
3 hiring of personnel;

4 (4) Changing the position title of the commission's chief
5 administrator to executive officer to reflect the
6 position's increased management responsibilities;

7 (5) Enabling the chairperson of the public utilities
8 commission to appoint, employ, and dismiss a fiscal
9 officer and a personnel officer to further support the
10 administrative activities of the commission;

11 (6) Establishing the position of executive director of the
12 division of consumer advocacy which shall be the
13 consumer advocate; and

14 (7) Appropriating funds to assist with the transition of
15 the public utilities commission and for the hiring of
16 an executive officer, a fiscal officer, and a
17 personnel officer within the public utilities
18 commission.

19 SECTION 2. Section 26-8, Hawaii Revised Statutes, is
20 amended by amending subsection (d) to read as follows:

21 "(d) The [~~employees~~] employees' retirement system as
22 constituted by chapter 88 is placed within the department of



1 budget and finance for administrative purposes. The functions,
2 duties, and powers, subject to the administrative control of the
3 director of finance, and the composition of the board of
4 trustees of the employees retirement system shall be as
5 heretofore provided by law.

6 ~~[The public utilities commission is placed within the~~
7 ~~department of budget and finance for administrative purposes~~
8 ~~only.]"~~

9 SECTION 3. Section 26-9, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

11 "(c) The board of acupuncture, board of public
12 accountancy, board of barbering and cosmetology, boxing
13 commission, board of chiropractic examiners, contractors license
14 board, board of dental examiners, board of electricians and
15 plumbers, elevator mechanics licensing board, board of
16 professional engineers, architects, surveyors, and landscape
17 architects, board of massage therapy, Hawaii medical board,
18 motor vehicle industry licensing board, motor vehicle repair
19 industry board, board of naturopathic medicine, board of
20 nursing, board of examiners in optometry, pest control board,
21 board of pharmacy, board of physical therapy, board of
22 psychology, board of private detectives and guards, real estate



1 commission, board of veterinary examiners, board of speech
2 pathology and audiology, and any board, commission, program, or
3 entity created pursuant to or specified by statute in
4 furtherance of the purpose of this section including but not
5 limited to section 26H-4, or chapters 484, 514A, 514B, and 514E
6 shall be placed within the department of commerce and consumer
7 affairs for administrative purposes.

8 The public utilities commission shall be a semi-autonomous
9 agency of the State that shall be placed within, for
10 administrative purposes only, the department of commerce and
11 consumer affairs. Notwithstanding sections 26-9(e), 26-9(f),
12 26-9(g), 26-9(h), 26-9(j), 26-9(k), 26-9(l), 26-9(m), 26-9(n),
13 26-9(r), and 26-9(s), the department of commerce and consumer
14 affairs shall not direct or exert authority over the day to day
15 operations or functions of the commission."

16 SECTION 4. Section 269-2, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§269-2 Public utilities commission; number, appointment**
19 **of commissioners, qualifications; compensation; persons having**
20 **interest in public utilities[-]; semi-autonomous agency;**
21 **authority.** (a) There shall be a public utilities commission of
22 three members, to be called commissioners, and who shall be



1 appointed in the manner prescribed in section 26-34, except as
2 otherwise provided in this section. All members shall be
3 appointed for terms of six years each; except that the terms of
4 the members first appointed shall be for two, four, and six
5 years, respectively, as designated by the governor at the time
6 of appointment. The governor shall designate a member to be
7 chairperson of the commission. Each member shall hold office
8 until the member's successor is appointed and qualified.

9 Section 26-34 shall not apply insofar as it relates to the
10 number of terms and consecutive number of years a member can
11 serve on the commission; provided that no member shall serve
12 more than twelve consecutive years.

13 In appointing commissioners, the governor shall select
14 persons who have had experience in accounting, business,
15 engineering, government, finance, law, or other similar fields.
16 The commissioners shall devote full time to their duties as
17 members of the commission and no commissioner shall hold any
18 other public office or other employment during the
19 commissioner's term of office. No person owning any stock or
20 bonds of any public utility corporation, or having any interest
21 in, or deriving any remuneration from, any public utility shall
22 be appointed a commissioner.



1 (b) Effective July 1, [~~2005,~~] 2014, the chairperson of the
2 commission shall be paid a salary set at [~~eighty-seven~~] _____
3 per cent of the salary of the director of human resources
4 development, and each of the other commissioners shall be paid a
5 salary equal to [~~ninety-five~~] _____ per cent of the
6 chairperson's salary. The commissioners shall be exempt from
7 chapters 76 and 89 but shall be members of the state employees
8 retirement system and shall be eligible to receive the benefits
9 of any state or federal employee benefit program generally
10 applicable to officers and employees of the State, including
11 those under chapter 87A.

12 (c) The commission [~~is placed within the department of~~
13 ~~budget and finance for administrative purposes.~~] shall be a
14 semi-autonomous agency of the State and shall be placed within,
15 for administrative purposes only, the department of commerce and
16 consumer affairs. The department of commerce and consumer
17 affairs shall not direct or exert authority over the day to day
18 operations or functions of the commission, except as provided in
19 subsection (f) and section 269-3.

20 (d) Notwithstanding section 26-35(a)(5) to the contrary,
21 the commission's operational expenditures, such as the purchase
22 of supplies, equipment, furniture, dues and subscriptions,



1 travel, consultant services, and staff training shall be
2 determined by the chairperson and may be delegated to the
3 executive officer appointed and employed pursuant to section
4 269-3; provided that such expenditures shall be subject to all
5 applicable procurement laws and procedures.

6 (e) Notwithstanding section 26-35(a)(6) to the contrary,
7 the utilization, allocation, renovation, or other use of space
8 or spaces to be occupied by the commission shall be determined
9 by the chairperson and may be delegated to the executive officer
10 appointed and employed pursuant to section 269-3.

11 (f) Determinations made under subsection (d) or subsection
12 (e) by the chairperson or the executive officer as delegated by
13 the chairperson, may be reviewed by the director of commerce and
14 consumer affairs for completeness and for compliance and
15 conformance with applicable administrative processes and
16 procedures of the department of commerce and consumer affairs."

17 SECTION 5. Section 269-3, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§269-3 Employment of assistants.** (a) The chairperson of
20 the public utilities commission may appoint and employ
21 professional staff and other assistants for the public utilities
22 commission as the chairperson finds necessary for the



1 performance of the commission's functions and define their
2 powers and duties. Notwithstanding section 26-35(a)(4) to the
3 contrary and subject to applicable personnel laws, the
4 employment, appointment, applicable salary schedules, promotion,
5 transfer, demotion, discharge, and job descriptions of all
6 officers and employees of or under the jurisdiction of the
7 commission shall be determined by the chairperson and may be
8 delegated to the executive officer appointed and employed
9 pursuant to subsection (b); provided that determinations
10 concerning personnel matters made by the chairperson or the
11 executive officer, as delegated by the chairperson, may be
12 reviewed by the director of commerce and consumer affairs for
13 completeness and for compliance and conformance with applicable
14 administrative processes and procedures of the department of
15 commerce and consumer affairs. The chairperson may appoint and,
16 at pleasure, dismiss a chief administrator and attorneys as may
17 be necessary, and who shall be exempt from chapter 76. The
18 chairperson may also appoint other staff, including a fiscal
19 officer and a personnel officer, with or without regard to
20 chapter 76.

21 (b) The chairperson shall appoint, employ, and dismiss, at
22 pleasure, an executive officer who shall be responsible for



1 managing the operations of the commission. The responsibilities
2 of the executive officer shall include management and
3 recruitment of personnel, budget planning and implementation,
4 strategic planning and implementation, procurement and contract
5 administration, and implementation of administrative programs
6 and projects. The executive officer shall be exempt from
7 chapter 76.

8 [~~(b)~~] (c) Notwithstanding section 91-13, the commission
9 may consult with its assistants appointed under authority of
10 this section in any contested case or agency hearing concerning
11 any issue of facts. Neither the commission nor any of its
12 assistants shall in such proceeding consult with any other
13 person or party except upon notice and an opportunity for all
14 parties to participate, save to the extent required for the
15 disposition of ex parte matters authorized by law."

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

18 "**§269-5 Annual report and register of orders.** The public
19 utilities commission shall prepare and present to the governor[~~7~~
20 ~~through the director of finance,~~] in the month of January in
21 each year a report respecting its actions during the preceding
22 fiscal year. This report shall include summary information and



1 analytical, comparative, and trend data concerning major
2 regulatory issues acted upon and pending before the commission;
3 cases processed by the commission, including their dispositions;
4 utility company operations, capital improvements, and rates;
5 utility company performance in terms of efficiency and quality
6 of services rendered; financing orders issued, adjustments made
7 to the public benefits fee, and repayments or credits provided
8 to electric utility customers pursuant to part X or chapter 196,
9 part IV; a summary of power purchase agreements, including
10 pricing, in effect during the fiscal year; environmental matters
11 having a significant impact upon public utilities; actions of
12 the federal government affecting the regulation of public
13 utilities in Hawaii; long and short-range plans and objectives
14 of the commission; together with the commission's
15 recommendations respecting legislation and other matters
16 requiring executive and legislative consideration. Copies of
17 the annual reports shall be furnished by the governor to the
18 legislature. In addition, the commission shall establish and
19 maintain a register of all its orders and decisions, which shall
20 be open and readily available for public inspection, and no
21 order or decision of the commission shall take effect until it
22 is filed and recorded in this register."



1 SECTION 7. Section 269-33, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read:

3 "(a) There is established in the state treasury a public
4 utilities commission special fund to be administered by the
5 public utilities commission. The proceeds of the fund shall be
6 used by the public utilities commission and the division of
7 consumer advocacy of the department of commerce and consumer
8 affairs for all expenses incurred in the administration of
9 chapters 269, 271, 271G, 269E, and 486J[+], and for costs
10 incurred by the department of commerce and consumer affairs to
11 provide administrative support services to the commission
12 pursuant to this chapter; provided that the expenditures of the
13 public utilities commission shall be in accordance with
14 legislative appropriations. On a quarterly basis, an amount not
15 exceeding thirty per cent of the proceeds remaining in the fund
16 after the deduction for central service expenses, pursuant to
17 section 36-27, shall be allocated by the public utilities
18 commission to the division of consumer advocacy and deposited in
19 the compliance resolution fund established pursuant to section
20 26-9(o); provided that all moneys allocated by the public
21 utilities commission from the fund to the division of consumer



1 advocacy shall be in accordance with legislative
2 appropriations."

3 SECTION 8. Section 269-51, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§269-51 Consumer advocate; [director of commerce and~~
6 ~~consumer affairs.] executive director of the division of~~
7 ~~consumer advocacy.~~ The [~~director of the department of commerce~~
8 ~~and consumer affairs]~~ executive director of the division of
9 consumer advocacy shall be the consumer advocate in hearings
10 before the public utilities commission. The consumer advocate
11 shall represent, protect, and advance the interests of all
12 consumers, including small businesses, of utility services.
13 [~~The consumer advocate shall not receive any salary in addition~~
14 ~~to the salary received as director of commerce and consumer~~
15 ~~affairs.]~~

16 The responsibility of the consumer advocate for advocating
17 the interests of the consumer of utility services shall be
18 separate and distinct from the responsibilities of the public
19 utilities commission and those assistants employed by the
20 commission. [~~As~~] The consumer advocate [~~, the director of~~
21 ~~commerce and consumer affairs]~~ shall have full rights to



1 participate as a party in interest in all proceedings before the
2 public utilities commission."

3 SECTION 9. Section 269-52, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§269-52 Division of consumer advocacy; personnel.** There
6 shall be a division of consumer advocacy within the department
7 of commerce and consumer affairs [~~to provide administrative~~
8 ~~support to the director of commerce and consumer affairs acting~~
9 ~~in the capacity of consumer advocate~~]. The director may [~~employ~~
10 ~~and at pleasure dismiss an executive administrator,~~] appoint an
11 executive director, who shall be exempt from chapter 76[~~, may~~
12 ~~define the executive administrator's powers and duties,~~] and fix
13 the executive [~~administrator's~~] director's compensation. The
14 executive director shall supervise and control the operations
15 and personnel of the division. The executive director shall be
16 responsible for the performance of the duties imposed upon the
17 division and shall be the consumer advocate as specified in
18 section 269-51. The executive director may employ engineers,
19 accountants, investigators, clerks, and stenographers as may be
20 necessary for the performance of the consumer advocate's
21 functions, in accordance with chapter 76; provided that:



1 (1) The executive director may employ up to ten utility
2 analysts exempt from chapter 76; and

3 (2) Each analyst shall possess at least the minimum
4 qualifications required of comparable experts in the
5 relevant industry."

6 SECTION 10. Section 269-53, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§269-53 Legal counsel.** The executive director of the
9 division of consumer advocacy may appoint or retain, without
10 regard to chapter 76, attorneys to provide legal services for
11 the division of consumer advocacy. Nothing in this section
12 precludes the director of commerce and consumer affairs or the
13 executive director of the division of consumer advocacy from
14 requesting and securing legal services from the attorney general
15 and the department of the attorney general."

16 SECTION 11. There is appropriated out of the public
17 utilities commission special fund established pursuant to
18 section 269-33, Hawaii Revised Statutes, the sum of \$ or
19 so much thereof as may be necessary for fiscal year 2014-2015 to
20 effectuate the transfer of the public utilities commission from
21 the department of budget and finance to the department of
22 commerce and consumer affairs, to enable the chairperson of the



1 public utilities commission to appoint and employ an executive
2 officer who shall be responsible for managing the operations of
3 the public utilities commission, and to enable the chairperson
4 of the public utilities commission to appoint and employ a
5 fiscal officer and a personnel officer to support the
6 administrative activities of the commission.

7 The sum appropriated shall be expended by the public
8 utilities commission for the purposes of this Act.

9 SECTION 12. (a) No later than July 1, 2015, all rights,
10 powers, functions, and duties of the department of budget and
11 finance as they relate to the public utilities commission are
12 transferred to the department of commerce and consumer affairs
13 in accordance with sections 26-9(c) and 269-2, Hawaii Revised
14 Statutes, as amended by this Act.

15 (b) All officers and employees whose functions are
16 transferred by this Act shall be transferred with their
17 functions and shall continue to perform their regular duties
18 upon their transfer, subject to the state personnel laws and
19 this Act.

20 No officer or employee of the State having tenure shall
21 suffer any loss of salary, seniority, prior service credit,
22 vacation, sick leave, or other employee benefit or privilege as



1 a consequence of this Act, and such officer or employee may be
2 transferred or appointed to a civil service position without the
3 necessity of examination; provided that the officer or employee
4 possesses the minimum qualifications for the position to which
5 transferred or appointed; and provided that subsequent changes
6 in status may be made pursuant to applicable civil service and
7 compensation laws.

8 An officer or employee of the State who does not have
9 tenure and who may be transferred or appointed to a civil
10 service position as a consequence of this Act shall become a
11 civil service employee without the loss of salary, seniority,
12 prior service credit, vacation, sick leave, or other employee
13 benefits or privileges and without the necessity of examination;
14 provided that such officer or employee possesses the minimum
15 qualifications for the position to which transferred or
16 appointed.

17 If an office or position held by an officer or employee
18 having tenure is abolished, the officer or employee shall not
19 thereby be separated from public employment, but shall remain in
20 the employment of the State with the same pay and classification
21 and shall be transferred to some other office or position for
22 which the officer or employee is eligible under the personnel



1 laws of the State as determined by the head of the department or
2 the governor.

3 SECTION 13. The chairperson and commissioners serving on
4 the public utilities commission on the date prior to the
5 effective date of this Act shall continue as members of the
6 public utilities commission and their terms shall be unaffected
7 by this Act.

8 SECTION 14. All appropriations, records, equipment,
9 machines, files, supplies, contracts, books, papers, documents,
10 maps, and other personal property heretofore made, used,
11 acquired, or held by the department of budget and finance
12 relating to the functions transferred to the department of
13 commerce and consumer affairs shall be transferred with the
14 functions to which they relate.

15 SECTION 15. All rules, policies, procedures, guidelines,
16 general orders, and other material adopted or developed by the
17 public utilities commission as an administratively attached
18 agency of the department of budget and finance that are
19 applicable to the public utilities commission as a semi-
20 autonomous administratively attached agency of the department of
21 commerce and consumer affairs pursuant to this Act shall remain
22 in full force and effect and unaffected by this Act until



1 amended or repealed by the public utilities commission pursuant
2 to chapter 91, Hawaii Revised Statutes. Every reference to the
3 department of budget and finance or director of finance in those
4 rules, policies, procedures, guidelines, and other material
5 shall be deemed to refer to the department of commerce and
6 consumer affairs or director of commerce and consumer affairs,
7 as appropriate.

8 SECTION 16. All deeds, leases, contracts, loans,
9 agreements, permits, or other documents executed or entered into
10 by or on behalf of the public utilities commission shall remain
11 in full force and effect regardless of the commission's
12 administrative transfer to the department of commerce and
13 consumer affairs.

14 SECTION 17. All costs and expenses associated with
15 transferring the public utilities commission to become a semi-
16 autonomous agency that is administratively attached to the
17 department of commerce and consumer affairs shall be borne by
18 the public utilities commission or the department of commerce
19 and consumer affairs. No liabilities or liens arising from such
20 transfer shall accrue to the department of budget and finance.

21 SECTION 18. There shall be a transition period to
22 facilitate the transfer of the public utilities commission from



1 the department of budget and finance to become a semi-autonomous
2 agency that is administratively attached to the department of
3 commerce and consumer affairs. The fiscal year beginning July
4 1, 2014, shall serve as a transition period, in which the state
5 agencies affected by this Act shall assist the chairperson of
6 the public utilities commission in implementing the transfer
7 under this Act. Once the transfer is completed, the department
8 of commerce and consumer affairs shall provide public notice
9 that the transfer is completed in a printed publication or
10 electronic format that is accessible statewide.

11 SECTION 19. The provisions of this Act are to be liberally
12 construed to effectuate its purpose.

13 SECTION 20. All Acts passed by the legislature during the
14 regular session of 2014, whether enacted before or after the
15 effective date of this Act, shall be amended to conform to this
16 Act unless such Acts specifically provide that this Act is being
17 amended.

18 SECTION 21. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 22. This Act shall take effect on July 1, 2112.



Report Title:

Public Utilities Commission; Transfer of Attached Agency; Compensation; Personnel; Authority; Expenditures; Division of Consumer Advocacy; Appropriation

Description:

Transfers the administrative placement of the Public Utilities Commission from the Department of Budget and Finance to the Department of Commerce and Consumer Affairs. Authorizes PUC Chairperson to appoint additional management-level employees. Increases compensation of PUC chairperson and commissioners. Establishes executive director of the Division of Consumer Advocacy position which shall also serve as the Consumer Advocate. Makes appropriation. Effective July 1, 2112.
(SB2948 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

