

JAN 23 2014

A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS.

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

1 SECTION 1. For decades, the job performed by the division
2 of consumer advocacy has been inconsistent with the powers and
3 duties conferred to the division by Hawaii law. The consumer
4 advocate has focused only on public utility rates and has never
5 considered environmental issues, appeared before any
6 governmental agency other than the public utilities commission,
7 adopted administrative rules, represented a subset of consumers,
8 or appealed a case in court. Accordingly, it is prudent to
9 amend state law to reflect the actual functions of the division.

10 The purpose of this Act is to:

- 11 (1) Amend the powers and duties of the consumer advocate
12 to more accurately reflect the powers and duties
13 actually performed by the consumer advocate;
14 (2) Rename the consumer advocate as the rate advocate; and
15 (3) Rename the division of consumer advocacy as the
16 division of rate advocacy.

17 SECTION 2. Section 269-51, Hawaii Revised Statutes, is
18 amended to read as follows:



1 "**§269-51** ~~[Consumer]~~ Rate advocate; director of commerce
2 **and consumer affairs.** The director of commerce and consumer
3 affairs shall be the ~~[consumer]~~ rate advocate in hearings before
4 the public utilities commission. The ~~[consumer]~~ rate advocate
5 shall represent, protect, and advance the interests of all
6 consumers~~[, including small businesses,]~~ of utility services.
7 The ~~[consumer]~~ rate advocate shall not receive any salary in
8 addition to the salary received as director of commerce and
9 consumer affairs.

10 The responsibility for advocating the interests of the
11 consumer of utility services shall be separate and distinct from
12 the responsibilities of the public utilities commission and
13 those assistants employed by the commission. As ~~[consumer]~~ rate
14 advocate, the director of commerce and consumer affairs shall
15 have full rights to participate as a party in interest in all
16 proceedings before the public utilities commission."

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

19 "**§269-52** **Division of** ~~[consumer]~~ rate advocacy; personnel.
20 There shall be a division of ~~[consumer]~~ rate advocacy within the
21 department of commerce and consumer affairs to provide
22 administrative support to the director of commerce and consumer



1 affairs acting in the capacity of [consumer] rate advocate. The
2 director may employ and at pleasure dismiss an executive
3 administrator, who shall be exempt from chapter 76, may define
4 the executive administrator's powers and duties, and fix the
5 executive administrator's compensation. The director may employ
6 engineers, accountants, investigators, clerks, and stenographers
7 as may be necessary for the performance of the [consumer] rate
8 advocate's functions, in accordance with chapter 76; provided
9 that:

- 10 (1) The director may employ up to ten utility analysts
11 exempt from chapter 76; and
- 12 (2) Each analyst shall possess at least the minimum
13 qualifications required of comparable experts in the
14 relevant industry."

15 SECTION 4. Section 269-54, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§269-54 General powers; duties.** (a) The [consumer] rate
18 advocate shall have the authority expressly conferred by or
19 reasonably implied from the provisions of this part.

20 (b) The [consumer] rate advocate may:

21 [~~(1) Adopt rules pursuant to chapter 91 necessary to~~
22 ~~effectuate the purposes of this part.~~



- 1 ~~(2)~~ (1) Conduct investigations to secure information
2 useful in the lawful administration of any provision
3 of this part~~[-]~~;
- 4 ~~[(3) Assist, advise, and cooperate with federal, state, and
5 local agencies and officials to protect and promote
6 the interests of the consumer in the public utilities
7 field.~~
- 8 ~~(4)~~ (2) Study the operation of laws affecting all
9 consumers~~[, including small businesses,]~~ of utility
10 services and recommend to the governor and the
11 legislature new laws and amendments of laws in the
12 consumers' interest in the public utilities field~~[-~~
- 13 ~~(5) Organize and hold conferences on problems affecting
14 consumers of utility services.]~~;
- 15 (3) Assist, advise, and cooperate with public utilities;
16 and
- 17 ~~[(6)]~~ (4) Perform ~~[such]~~ other acts as may be incidental to
18 the exercise of the functions, powers, and duties set
19 forth in this section.
- 20 ~~[(7) Represent the interests of consumers of utility
21 services before any state or federal agency or~~



1 ~~instrumentality having jurisdiction over matters which~~
2 ~~affect those interests.~~

3 ~~(c) The consumer advocate shall consider the long-term~~
4 ~~benefits of renewable resources in the consumer advocate's role~~
5 ~~as consumer advocate.~~

6 ~~(d)]~~ (c) Whenever it appears to the [consumer] rate
7 advocate that:

- 8 (1) [any] Any public utility has violated or failed to
9 comply with any provision of this part or of any state
10 or federal law;
- 11 (2) [any] Any public utility has failed to comply with any
12 rule, regulation, or other requirement of the public
13 utilities commission or of any other state or federal
14 agency;
- 15 (3) [any] Any public utility has failed to comply with any
16 provision of its charter or franchise;
- 17 (4) [~~changes,~~] Changes, additions, extensions, or repairs
18 to the plant or service of any public utility are
19 necessary to meet the reasonable convenience or
20 necessity of the public; or



1 (5) ~~[the]~~ The rates, fares, classifications, charges, or
2 rules of any public utility are unreasonable or
3 unreasonably discriminatory,
4 the ~~[consumer]~~ rate advocate may institute proceedings for
5 appropriate relief before the public utilities commission. ~~[The~~
6 ~~consumer advocate may appeal any final decision and order in any~~
7 ~~proceeding to which the consumer advocate is a party in the~~
8 ~~manner provided by law.~~

9 ~~(e)]~~ (d) The ~~[consumer]~~ rate advocate may file with the
10 commission and serve on any public utility a request in writing
11 to furnish any information reasonably relevant to any matter or
12 proceeding before the commission or reasonably required by the
13 ~~[consumer]~~ rate advocate to perform the duties hereunder. Any
14 ~~[such]~~ request shall set forth with reasonable specificity the
15 purpose for which the information is requested and shall
16 designate with reasonable specificity the information desired.
17 The public utility shall comply with ~~[such]~~ a request within the
18 time limit set forth by the ~~[consumer]~~ rate advocate unless
19 within ten days following service it requests a hearing on the
20 matter before the public utilities commission and states its
21 reasons therefor. If a hearing is requested, the public
22 utilities commission shall proceed to hold the hearing and make



1 its determination on the request within thirty days after the
2 same is filed. [~~The consumer advocate or the public utility may~~
3 ~~appeal the decision of the commission on any such request,~~
4 ~~subject to chapter 602, in the manner provided for civil appeals~~
5 ~~from the circuit courts.] Subject to the foregoing, [such]
6 requests may ask the public utility to:~~

- 7 (1) Furnish any information with which the [~~consumer~~] rate
8 advocate may require concerning the condition,
9 operations, practices, or services of the public
10 utility;
- 11 (2) Produce and permit the [~~consumer~~] rate advocate or the
12 consumer advocate's representative to inspect and copy
13 any designated documents (including writings,
14 drawings, graphs, charts, photographs, recordings, and
15 other data compilations from which information can be
16 obtained), or to inspect and copy, test, or sample any
17 designated tangible thing [~~which~~] that is in the
18 possession, custody, or control of the public utility;
19 or
- 20 (3) Permit entry upon land or other property in the
21 possession or control of the utility for the purpose
22 of inspection and measuring, surveying, photographing,



1 testing, or sampling the property or any designated
2 object thereon."

3 SECTION 5. (a) All references to "consumer advocate", or
4 like terms, as the case may be, in sections 138-2, 269-6.5, 269-
5 16, 269-31, 269-55, 271-9.5, 271G-7.5, 271G-10, 486J-6, and
6 486J-7, Hawaii Revised Statutes, shall be amended to "rate
7 advocate", or like terms, as the case may be, as the context
8 requires.


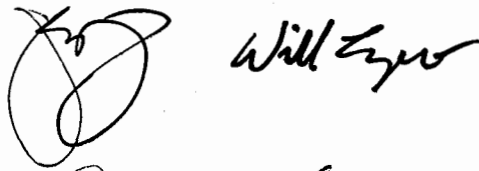

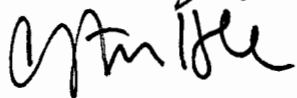
9 (b) All references to "division of consumer advocacy", or
10 like terms, as the case may be, in sections 28-8.3, 196-1, 269-
11 27.6, 269-33, 269-53, and 269E-4, Hawaii Revised Statutes, shall
12 be amended to "division of rate advocacy", or like terms, as the
13 case may be, as the context requires.

14 SECTION 6. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

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

17

INTRODUCED BY:



S.B. NO. 3089

Report Title:

Consumer Advocate; Division of Consumer Advocacy; Rename; Duties

Description:

Amends the powers and duties of the consumer advocate to more accurately reflect the powers and duties actually performed by the consumer advocate. Renames the consumer advocate as the rate advocate. Renames the division of consumer advocacy as the division of rate advocacy.

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

