
A BILL FOR AN ACT

RELATING TO ENERGY.

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

1 SECTION 1. The legislature finds that the current public
2 utility regulatory structure for electricity and fuel resource
3 procurement practices may hinder the development of essential
4 public purpose projects that require utility cooperation and
5 procurement of electricity or fuel. Currently, a public utility
6 is not obligated or incentivized to look beyond its own
7 interests, direct costs to its ratepayers, and regulatory
8 requirements in the procurement of electricity or fuel. As a
9 result, public purpose projects may be stalled unnecessarily,
10 and the public, including the public utilities' ratepayers, may
11 also be negatively impacted.

12 The legislature believes that a simplified regulatory
13 process would allow the State and counties to develop and
14 present public purpose projects that involve a public utility's
15 participation in the procurement of electricity or fuel without
16 the prior approval of the affected public utility. A simplified
17 regulatory process would encourage and facilitate the



1 development of projects with important public purpose
2 objectives. The role of the public utility in these cases would
3 be limited to system integration. Public purpose projects may
4 include management of waste and waste water, potable water, law
5 enforcement, public health, and other essential public services.

6 The legislature notes that in some circumstances, direct
7 and indirect public benefits may warrant higher rates for
8 electricity or fuel in relation to utility procurement
9 contracts.

10 The purpose of this Act is to create a simplified
11 regulatory process and procurement mechanism for the public
12 utility commission's review and approval of projects and to
13 direct public utilities to procure electricity or fuel from
14 those projects at a rate authorized by the commission.

15 SECTION 2. Chapter 269, Hawaii Revised Statutes, is
16 amended by adding a new part to be appropriately designated and
17 to read as follows:

18 "PART . PUBLIC PURPOSE PROJECTS

19 §269-A Definitions. For the purposes of this part:

20 "Agency" means each state or county board, commission,
21 department, or officer authorized by law to make rules or to



1 adjudicate contested cases, except those in the legislative or
2 judicial branches.

3 "Commission" means the public utilities commission.

4 "Public purpose project" means a project that is in the
5 public interest as determined by an agency.

6 **§269-B Public purpose project determination by agency.** An
7 agency shall comply with the following process in determining
8 whether a proposed public purpose project is in the public
9 interest:

10 (1) The agency shall confer with the public utility that
11 is the intended buyer of the electricity or fuel to be
12 produced by the public purpose project and shall
13 provide the public utility with written notice that
14 the agency intends to propose a public purpose
15 project. The public utility, within ninety days of
16 notice from the agency, shall prepare and provide the
17 agency with a feasibility report describing and
18 analyzing the feasibility of the proposed public
19 purpose project in interconnecting and providing
20 electrical energy, or in supplying fuel to the public
21 utility for electricity generation. The feasibility



1 report shall be prepared at the cost of the public
2 utility; provided that the commission shall allow the
3 public utility to recover reasonable costs in
4 preparing the feasibility studies from its ratepayers
5 pursuant to a methodology approved by the commission.
6 If the agency disagrees with the public utility, the
7 agency may appoint an independent engineer or
8 consultant at its own cost to validate or contest the
9 public utility's findings;

10 (2) The agency shall formulate a proposal for a public
11 purpose project. The proposal shall include, at a
12 minimum, the following:

13 (A) The location of the facility;

14 (B) A brief description of the facility, including a
15 statement and agency determination that the plan
16 is for a public purpose project as defined in
17 this part;

18 (C) The primary energy source used or to be used by
19 the facility;

20 (D) The power production capacity of the facility;

21 (E) The public benefit created by the project;



- 1 (F) The proposed rates for the public purpose
2 project; and
- 3 (G) The feasibility of the proposed public purpose
4 project in interconnecting and providing
5 renewable electricity or in supplying renewable
6 fuel to the public utility; and
- 7 (3) The agency shall determine whether the planned public
8 purpose project is in the public interest pursuant to
9 its authority under all governing and applicable laws.
10 The determination shall be supported by written
11 findings of the agency.

12 §269-C Petition for commission review of public purpose
13 project. The agency shall submit a petition for approval and
14 implementation of the public purpose project to the commission.
15 The agency shall serve the affected public utility with the
16 petition. The commission shall:

- 17 (1) Within sixty days of the petition's submission to the
18 commission, determine the completeness of the
19 petition; otherwise the petition shall be deemed to be
20 complete sixty days after filing. If the commission
21 determines a petition to be complete, the commission



1 shall provide the agency with written notice of the
2 findings and the reasons therefor, and if incomplete,
3 shall provide the agency with an opportunity to amend
4 the petition and resubmit the petition for approval.
5 The petition shall include, at a minimum, the
6 proposal, feasibility report, and written findings
7 described in section 269-B;

- 8 (2) Upon a finding that the petition is complete, the
9 agency and the public utility shall negotiate in good
10 faith the material terms and necessary details of the
11 agreement for the purchase of renewable energy
12 generated or produced by the public purpose project.
13 If the agency and the public utility reach agreement
14 within forty-five days on all the material terms of
15 the public purpose project, the parties, within thirty
16 days of reaching an agreement, shall file a joint
17 petition for the commission's approval of the public
18 purpose project. If the parties do not reach an
19 agreement within forty-five days, each party, within
20 the next fourteen days thereafter, shall report the
21 status of negotiations with the commission noting



1 their differences and all outstanding issues for final
2 adjudication by the commission;

3 (3) The commission shall determine whether the proposed
4 public purpose project is in the public interest;

5 (4) The commission shall address any joint petition for
6 approval of the public purpose project as provided in
7 this part, and determine any terms not agreed upon by
8 the agency and the public utility as may be required
9 and appropriate, and may direct the public utility to
10 accept the public purpose project on terms and
11 conditions as may be deemed appropriate and reasonable
12 by the commission; and

13 (5) The commission shall approve or deny the petition, and
14 make any other required determinations within one
15 hundred eighty days of the filing of the petition.

16 The commission shall conduct a contested case in
17 making a determination and a determination shall be
18 appealable as provided in section 269-15.5.

19 **§269-D Public purpose project implementation.** Following
20 approval of the public purpose project, the agency and public
21 utility shall implement the project as provided in this part.



1 The implementation of the project shall consist of, and be
2 subject to, the following:

- 3 (1) A public purpose project duly approved by the
4 commission shall be entitled to receive rates from the
5 public utility as approved by the commission;
- 6 (2) The public utility may reasonably determine the
7 location where the electricity or fuel is to be
8 delivered to the public utility; provided that any
9 additional costs to deliver the renewable electrical
10 energy or fuel shall be taken into consideration in
11 the decision making process by the commission;
- 12 (3) The commission may require an independent engineer to
13 validate the cost of the resource and system
14 integration; and
- 15 (4) The public utility shall bear the cost of any
16 alteration or modification of its equipment or
17 facilities that may be required to accept electrical
18 energy or fuel under this section; provided that the
19 commission shall allow the public utility to recover
20 the costs incurred pursuant to applicable ratemaking



1 procedures and principles as determined by the
2 commission.

3 §269-E Limitations of part. Nothing in this part shall
4 prohibit an agency from directly approaching a public utility to
5 discuss or negotiate an agreement for the purchase and sale of
6 renewable electrical energy or renewable fuel from a public
7 purpose project.

8 §269-F Role of consumer advocate. The consumer advocate,
9 in addition to other considerations within its authority and
10 responsibilities, shall consider the benefits of the public
11 purpose project, as determined by an agency in this part."

12 SECTION 3. In codifying the new sections added by section
13 2 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 4. This Act shall take effect upon its approval.
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H.B. NO. 2081

Report Title:

Public Utilities; Public Agencies; Public Purpose Projects;
Commission

Description:

Authorizes public agencies to initiate public purpose projects through which a public utility will purchase fuel or electricity. Establishes procedures for the public utilities commission.

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