
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 Commission review of public purpose project. The

13 commission shall, by January 1, 2017, establish a simplified

14 regulatory process and procurement mechanism for the

15 commission's review and approval of public purpose projects

16 proposed by public agencies and to direct public utilities to

17 procure electricity or fuel from approved projects at a rate

18 authorized by the commission.

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

6 **§269-F Role of consumer advocate.** The consumer advocate,
7 in addition to other considerations within its authority and
8 responsibilities, shall consider the benefits of the public
9 purpose project, as determined by an agency in this part."

10 **SECTION 3.** In codifying the new sections added by section
11 2 of this Act, the revisor of statutes shall substitute
12 appropriate section numbers for the letters used in designating
13 the new sections in this Act.

14 **SECTION 4.** This Act shall take effect on January 1, 2112.



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. Eff. 1/1/2112. (HB2081 HD2)

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