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## A BILL FOR AN ACT

RELATING TO THE MERGER, ACQUISITION, AND CONSOLIDATION OF  
ELECTRIC UTILITIES.

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

1           SECTION 1. The legislature finds that the merger,  
2 acquisition, or consolidation of an electric utility could have  
3 far-reaching effects on the health of the State's citizens,  
4 local industries, and environment. Therefore, it is necessary  
5 that the proposed merger, acquisition, or consolidation of an  
6 electric utility be subject to a thorough examination to  
7 determine whether the transaction is reasonable and in the  
8 public interest, and whether the successor electric utility is  
9 fit, willing, and able to perform the service currently offered  
10 by the existing electric utility.

11           The legislature further finds that public participation in  
12 the examination of any electric utility merger, acquisition, or  
13 consolidation is essential to safeguard the public interest when  
14 a proposed merger, acquisition, or consolidation is considered.

15           The purpose of this Act is to:



1 (1) Establish standards to evaluate a proposed merger,  
2 acquisition, or consolidation of an electric utility;  
3 and

4 (2) Strongly encourage public hearings to enable public  
5 participation in the evaluation process.

6 SECTION 2. Section 269-19, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§269-19 Merger and consolidation of public utilities.**

9 (a) Except as provided in subsection (b), no public utility  
10 shall sell, lease, assign, mortgage, or otherwise dispose of or  
11 encumber the whole or any part of its road, line, plant, system,  
12 or other property necessary or useful in the performance of its  
13 duties to the public, or any franchise or permit, or any right  
14 thereunder, nor by any means, directly or indirectly, merge or  
15 consolidate with any other public utility without first having  
16 secured from the public utilities commission an order  
17 authorizing it so to do. Every such sale, lease, assignment,  
18 mortgage, disposition, encumbrance, merger, or consolidation,  
19 made other than in accordance with the order of the commission  
20 shall be void.



1        (b) Whenever proposing a transaction covered by subsection  
2        (a), the electric utility shall file an application with the  
3        public utilities commission in a form as the commission may  
4        require. Upon filing of the application, the commission shall  
5        open a docket to determine whether the transaction is reasonable  
6        and in the public interest and whether the successor electric  
7        utility is fit, willing, and able to perform the service  
8        currently provided by the electric utility. In their evaluation  
9        of the application, the commission and division of consumer  
10       advocacy shall:

11       (1) Consider the impact of the proposed transaction upon  
12       the following elements of the public interest:  
13       (A) Affordability of electric service;  
14       (B) Safety and reliability of electric service;  
15       (C) Access to onsite generation and other options for  
16       customers to manage their energy usage;  
17       (D) Achievement of clean energy goals and related  
18       public policy objectives articulated by the State  
19       and the commission; and  
20       (E) Economic benefits to Hawaii, including employment  
21       and industries in the State;



- 1        (2) In determining whether the successor electric utility  
2        is fit, willing, and able to perform the service  
3        currently offered, consider whether the utility has  
4        the commitment and demonstrated ability to:
- 5        (A) Provide safe and reliable electric service at  
6        just and reasonable rates;
- 7        (B) Implement the clean energy goals and related  
8        public policy objectives articulated by the State  
9        and the commission;
- 10       (C) Develop and maintain the transmission and  
11       distribution infrastructure to optimize the  
12       system and maximize customer benefits; and
- 13       (D) Expand customer energy options, including energy  
14       efficiency and distributed energy resources;
- 15       (3) Review the electric utility's franchise in light of  
16       the elements of the public interest set forth in  
17       paragraph (1) and recommend to the legislature whether  
18       the language of the franchise should be revised; and
- 19       (4) Afford a reasonable opportunity for interested persons  
20       to be heard, by:



1           (A) In so far as practicable, holding a public  
2           hearing in each service territory affected by the  
3           proposed transaction; and

4           (B) Liberally construing any applicable standard of  
5           intervention for interested persons to become  
6           parties to the proceeding in order to enable the  
7           participation of a diverse group of stakeholders.

8 If the commission approves the application, the commission may  
9 impose terms and conditions as the commission determines are  
10 necessary for the transaction to satisfy the standards set forth  
11 in paragraphs (1) through (4).

12           ~~[(b)]~~ (c) A public utility, under circumstances that it  
13 deems exigent and in its judgment require a response that  
14 rapidly restores one of its customers to normal, or near normal,  
15 operating status in order to prevent serious disruption of  
16 essential public services, or avoid serious risk to public  
17 safety, or to mitigate severe economic losses to that customer,  
18 may transfer, assign, or otherwise dispose of its property  
19 without prior approval from the public utilities commission as  
20 required in subsection (a); provided that in so doing:



- 1           (1) The public utility does not unduly hinder or degrade
- 2                   the public utility's operation with respect to its
- 3                   services or other customers;
- 4           (2) The public utility is duly compensated for its
- 5                   property; and
- 6           (3) The public utility reports in detail to the public
- 7                   utilities commission within thirty days of any such
- 8                   action unless otherwise approved by the public
- 9                   utilities commission for good cause shown.

10           For purposes of this subsection, "property" does not  
11 include real property."

12           SECTION 3. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14           SECTION 4. This Act shall take effect upon its approval.



**Report Title:**

Public Utilities Commission; Division of Consumer Advocacy;  
Electric Utility Companies; Mergers and Consolidations;  
Standards; Hearings

**Description:**

Strongly encourages the Public Utilities Commission and Division of Consumer Advocacy to apply certain standards and criteria and hold a public hearing to determine whether to approve a merger, acquisition, or consolidation of an electric utility. (HB619 HD1)

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