

JAN 22 2016

A BILL FOR AN ACT

RELATING TO PUBLIC PURPOSE PROJECTS REQUIRING PUBLIC UTILITY
INVOLVEMENT.

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, public utilities
6 are not obligated or incentivized to look beyond their own
7 interests, direct costs to ratepayers, and regulatory
8 requirements in the procurement of electricity or fuel.
9 Therefore, public purpose projects may be stalled unnecessarily
10 and the public, including public utilities' ratepayers, is
11 negatively impacted.

12 The legislature further finds that a simplified regulatory
13 process that allows the State, counties, or an agency thereof to
14 develop and present public purpose projects that involve public
15 utilities' participation in procurement of electricity or fuel
16 directly to the public utilities commission is needed without



1 first obtaining the approval of the affected public utility. A
2 simplified regulatory process would encourage and facilitate the
3 development of projects with important public purpose
4 objectives. The role of the public utility in these cases will
5 be limited to system integration. Public purpose projects may
6 include management of waste and waste water, potable water, law
7 enforcement, public health, and other essential public services.
8 The legislature also finds that in some circumstances direct and
9 indirect public benefits may warrant higher rates for
10 electricity or fuel in relation to utility procurement
11 contracts.

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

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

20 "§269- Public purpose projects. (a) An agency shall
21 determine whether a proposed public purpose project is in the



1 public interest. In making the determination, the agency shall
2 confer with the public utility to which the public purpose
3 project proposes to provide and sell electricity or fuel and
4 provide the public utility with written notice that it intends
5 to propose a public purpose project. The public utility shall,
6 within ninety days of notice from the agency, prepare and
7 provide the agency with a feasibility report describing and
8 analyzing the feasibility of the proposed public purpose project
9 interconnecting and providing electrical energy or supplying
10 fuel to the public utility for electricity generation. The
11 feasibility report shall be prepared at the cost of the public
12 utility; provided that the commission shall allow the public
13 utility to recover reasonable costs in preparing such
14 feasibility studies from its ratepayers pursuant to a
15 methodology approved by the commission. If the agency disagrees
16 with the public utility, the agency shall have the right to
17 appoint an independent engineer or consultant at the agency's
18 own cost to validate or contest the public utility's findings.

19 (b) An agency shall formulate a proposal for a public
20 purpose project that shall include:

21 (1) The location of the facility;



1 (2) A brief description of the facility, including a
2 statement and agency determination that the facility
3 is a public purpose project as defined in this
4 section;

5 (3) The primary energy source used or to be used by the
6 facility;

7 (4) The power production capacity of the facility;

8 (5) The public benefit created by the project;

9 (6) The proposed rates for the public purpose project; and

10 (7) The feasibility of the proposed public purpose project
11 interconnecting and providing renewable electricity or
12 supplying renewable fuel to the public utility.

13 (c) An agency shall determine and support by written
14 findings whether a planned public purpose project is in the
15 public interest pursuant to the agency's authority under all
16 governing and applicable laws.

17 (d) An agency shall submit a petition for approval and
18 implementation of a public purpose project to the commission and
19 serve the affected public utility with the petition.

20 (e) The commission shall:



1 (1) Determine the completeness of the petition within
2 sixty days. Unless an agency is notified by the
3 commission, a petition shall be deemed complete sixty
4 days after filing. If the commission determines a
5 petition to be incomplete, the commission shall
6 provide the agency with written notice of such
7 findings and the reasons therefore, and provide the
8 agency with an opportunity to amend the petition and
9 re-submit the petition for approval. At a minimum,
10 the petition shall include the plan, feasibility
11 report, and written findings described in subsection
12 (c). Upon a finding or deemed completeness of the
13 petition, the agency and the public utility shall
14 negotiate in good faith the material terms and
15 necessary details of the agreement for purchase of
16 renewable energy generated or produced by the public
17 purpose project, which shall continue for no more than
18 forty-five days. If the agency and the public utility
19 reach agreement on all material terms for the public
20 purpose project, such parties shall file a joint
21 motion within the petition proceeding for approval of



1 the public purpose project within thirty days of
2 reaching such an agreement. If the parties do not
3 reach agreement within forty-five days, within
4 fourteen days thereafter, each party shall report the
5 status of negotiations to the commission, noting the
6 disagreements and all outstanding issues for final
7 adjudication by the commission;

8 (2) Determine whether the proposed public purpose project
9 is in the public interest;

10 (3) Address any joint motion for approval of the public
11 purpose project as provided in this section and
12 adjudicate and determine any terms not agreed upon by
13 the agency and the public utility as may be required
14 and appropriate; provided that the commission shall
15 have the authority to direct public utilities to
16 accept public purpose projects on such terms and
17 conditions as may be deemed appropriate and reasonable
18 by the commission; and

19 (4) Approve or deny the petition, and make any other
20 required determinations, within one hundred eighty
21 days of the date of finding or deemed completion of



1 the agency's petition; provided that a contested case
2 shall be appealable as provided in section 269-15.5.

3 (f) Following the approval of a public purpose project,
4 the agency and public utility shall implement the project
5 subject to the following:

6 (1) A public purpose project duly approved by the
7 commission shall be entitled to receive rates from the
8 public utility as approved by the commission;

9 (2) The public utility may reasonably determine the
10 location where the electricity or fuel is to be
11 delivered to the public utility; provided that any
12 additional costs to deliver the renewable electrical
13 energy or fuel shall be taken into consideration in
14 the decision making process by the commission;

15 (3) The commission shall have the authority to require an
16 independent engineer to validate the cost of the
17 resource and system integration; and

18 (4) The public utility shall bear the cost of any
19 alteration or modification of the public utility's
20 equipment or facilities that will be required to
21 accept electrical energy or fuel under this section;



1 provided that the commission shall allow the public
2 utility to recover such costs incurred pursuant to
3 applicable ratemaking procedures and principles as
4 determined by the commission.

5 (g) Nothing in this section shall prohibit an agency from
6 directly approaching a public utility to discuss or negotiate an
7 agreement for the purchase and sale of renewable electrical
8 energy or renewable fuel from a public purpose project.

9 (h) The consumer advocate shall, in addition to other
10 considerations within the advocate's authority and
11 responsibilities pursuant to chapter 269, consider the benefits
12 of the public purpose project as determined by the agency in
13 this section.

14 (i) As used in this section:

15 "Agency" means a state or county board, commission,
16 department, or officer not in the legislative or judicial
17 branches that is authorized by law to make rules or to
18 adjudicate contested cases.

19 "Commission" means the public utilities commission
20 established pursuant to this chapter.



S.B. NO. 2534

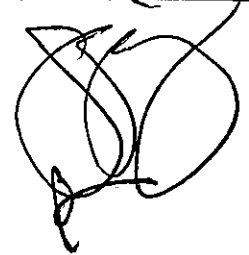
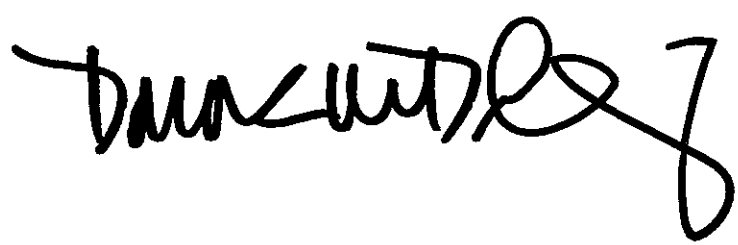
1 "Public purpose project" means a project that is in the
2 public interest as determined by an agency."

3 SECTION 3. New statutory material is underscored.

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

5

INTRODUCED BY: *Francis L. Brown*

A handwritten signature in black ink, appearing to be a stylized name or set of initials.A large, stylized handwritten signature in black ink, possibly reading "Francis L. Brown".

S.B. NO. 2534

Report Title:

Public Purpose Projects; Public Utility; Public Utility
Commission; Regulatory Process

Description:

Establishes a simplified regulatory process and procurement mechanism for the public utility commission to review public purpose projects and direct public utilities to procure electricity and fuel from the public purpose projects at a rate authorized by the commission.

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

