

JAN 27 2016

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# 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 power purchase  
2 agreements entered into by electric utilities and approved by  
3 the public utilities commission frequently prohibit power  
4 producers from selling energy to third parties, even if that  
5 energy is being curtailed and not purchased by the utility. The  
6 legislature further finds that it is not in the public interest  
7 for the public utilities commission to approve power purchase  
8 agreements that promote the waste of energy in this way. Rather  
9 than being wasted, curtailed energy could serve the people of  
10 Hawaii by being converted into clean fuels such as hydrogen,  
11 stored for later use, or otherwise being used in a productive  
12 manner.

13           The purpose of this Act is to promote efficiency,  
14 resilience, and innovation in Hawaii's energy system, by  
15 prohibiting the public utilities commission from approving power  
16 purchase agreements that prohibit the sale of energy to third



1 parties or requires utility consent to sell energy to third  
2 parties.

3 SECTION 2. Section 269-16.22, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 " [+]§269-16.22[+] Power purchase agreements; cost recovery  
6 for electric utilities. (a) All power purchase costs,  
7 including costs related to capacity, operations and maintenance,  
8 and other costs that are incurred by an electric utility  
9 company, arising out of power purchase agreements that have been  
10 approved by the public utilities commission and are binding  
11 obligations on the electric utility company, shall be allowed to  
12 be recovered by the utility from the customer base of the  
13 electric utility company through one or more adjustable  
14 surcharges, which shall be established by the public utilities  
15 commission. The costs shall be allowed to be recovered if  
16 incurred as a result of such agreements unless, after review by  
17 the public utilities commission, any such costs are determined  
18 by the commission to have been incurred in bad faith, out of  
19 waste, out of an abuse of discretion, or in violation of law.  
20 For purposes of this section, an "electric utility company"  
21 means a public utility as defined under section 269-1, for the



1 production, conveyance, transmission, delivery, or furnishing of  
2 electric power.

3 (b) The public utilities commission shall not approve any  
4 power purchase agreement, nor approve any amendment,  
5 modification, or renewal of any power purchase agreement for  
6 renewable energy if the subject power purchase agreement  
7 prohibits the sale of energy to third parties, or requires  
8 utility consent to sell energy to third parties, to the extent  
9 that the renewable energy will be stored for later distribution  
10 to an electric utility, or will be converted from electrical  
11 energy to another form of energy, including but not limited to  
12 chemical or thermal energy."

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

15 SECTION 4. This Act shall take effect on July 1, 2016.  
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*Jan 12*

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# S.B. NO. 2949

**Report Title:**

Power Purchase Agreements; Public Utilities Commission; Energy

**Description:**

Prohibits the public utility commission from approving power purchase agreements that prohibit the sale of energy to third parties or agreements that require utility consent to sell energy to third parties.

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