

JAN 20 2017

A BILL FOR AN ACT

RELATING TO THE PUBLIC UTILITIES COMMISSION.

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

1 SECTION 1. The legislature finds that the public utilities
2 commission's primary purpose is to provide effective, proactive,
3 and informed oversight of all regulated companies to ensure
4 these companies efficiently and safely provide their customers
5 with adequate and reliable services at just and reasonable
6 rates, while providing regulated companies with a fair
7 opportunity to earn a reasonable rate of return. However, the
8 public utilities commission has several long and short term
9 goals that reflect the commission's increased work complexity
10 and program responsibilities, which go beyond the commission's
11 traditional regulatory role, including in the area of energy
12 regulation.

13 The legislature further finds that due to these increasing
14 responsibilities, it is essential that the structure and
15 operations of the public utilities commission be updated to
16 enable the commission to operate more efficiently. For example,
17 updating the operations of the commission by adopting best



1 practices ensures that the commission functions in a more
2 inclusive and collaborative manner. Updating the structure of
3 the commission will also be beneficial. Increasing the number
4 of commissioners from three to five promotes diversity and is in
5 line with the number of commissioners in many other
6 jurisdictions. Furthermore, requiring the commission to be
7 composed of at least two women, one member from a neighbor
8 island, and members from fields other than just the legal
9 profession will enable the commission to consider a wider
10 variety of perspectives and backgrounds in its deliberations and
11 share decisions adopted by a group of people who more closely
12 represent the population of our State.

13 The legislature notes that the commission is encouraged to
14 engage in conversations with the consumer advocate and the
15 State's regulated industries, even when there is no current case
16 involved, which will enable the commission to gain a better
17 understanding of the regulated industries. The legislature also
18 encourages the commission to take steps toward a more
19 collaborative working environment, such as more face to face
20 meetings and by ensuring that summaries of cases and proposals



1 of settlements are circulated for comment amongst all
2 commissioners.

3 In keeping with the idea of a more collaborative
4 commission, the legislature additionally finds that advancements
5 in technology have enabled people to participate and work
6 remotely, without having to be physically present in the same
7 location as their colleagues. Permitting the use of
8 teleconference or videoconference technology for public hearings
9 before the commission will enable commissioners to participate
10 in public hearings in a convenient manner and be fully engaged.

11 The purpose of this Act is to update the structure and
12 operation of the commission to increase efficiency by:

- 13 (1) Establishing guiding principles of the commission;
14 (2) Allowing a commissioner to attend a public hearing by
15 teleconference or videoconference in specific
16 situations;
17 (3) Increasing the number of members on the commission,
18 specifying the composition of commission members, and
19 ensuring that members who are residents of a county
20 other than the city and county of Honolulu receive per
21 diem compensation and travel expenses;



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- 1 (4) Requiring new commissioners to attend at least one
2 meeting or training seminar offered by the National
3 Association of Regulatory Utility Commissioners within
4 the first year of the commissioner's appointment;
- 5 (5) Clarifying the ability of the commissioners to appoint
6 and employ staff;
- 7 (6) Requiring the commissioners to work with the
8 departments of commerce and consumer affairs and human
9 resources development to develop clearly defined
10 duties and responsibilities for public utilities
11 commission staff and report the staff duties to the
12 legislature; and
- 13 (7) Requiring a management audit to aid in the
14 commission's transition to a better functioning
15 entity.

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

19 "§269- Guiding principles of the public utilities
20 commission. The guiding principles of the public utilities
21 commission shall be to:



- 1 (1) Ensure reliability of energy delivery at all times;
- 2 (2) Manage resource adequacy and resiliency to ensure
- 3 adequate power is available when needed;
- 4 (3) Maintain affordability for consumers; and
- 5 (4) Allow utilities to earn a reasonable rate of return on
- 6 the utilities' investments.

7 §269- Hearing attendance by teleconference or video

8 conference. (a) A commissioner may attend a public hearing of
9 the public utilities commission by teleconference or
10 videoconference to allow a commissioner residing on an island
11 other than Oahu to attend a public hearing of the commission
12 held on Oahu and a commissioner residing on the island of Oahu
13 to attend a public hearing of the commission held on an island
14 other than Oahu, by teleconference or videoconference; provided
15 that commissioner participation by teleconference or
16 videoconference shall not be permitted at contested case
17 hearings.

18 (b) Each commissioner participating in a public hearing by
19 teleconference or videoconference shall be considered present at
20 the meeting for purposes of determining quorum and participating
21 in all proceedings.



1 (c) A public hearing held by teleconference or
2 videoconference:

3 (1) Need not have a quorum present at any one location;
4 and

5 (2) Is subject to the notice requirements under section
6 269-12.

7 (d) The notice of each teleconference or videoconference
8 public hearing shall specify all physical locations from which
9 the commissioners will participate."

10 SECTION 3. Section 269-2, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By amending subsection (a) to read:

13 "(a) There shall be a public utilities commission of
14 [~~three~~] five members, to be called commissioners, and who shall
15 be appointed in the manner prescribed in section 26-34, except
16 as otherwise provided in this section. All members shall be
17 appointed for terms of six years each, except that the terms of
18 the members first appointed shall be for two, four, and six
19 years, respectively, as designated by the governor at the time
20 of appointment. A member who is a resident of a county other
21 than the city and county of Honolulu shall receive per diem



1 compensation for expenses, incurred on the day or days which
2 actual service is rendered at an allowance equal to the maximum
3 federal employee rate for Hawaii as established by the United
4 States Department of Defense on the date that the member incurs
5 the expense. The governor shall designate a member to be
6 chairperson of the commission. Each member shall hold office
7 until the member's successor is appointed and [~~qualified.~~]
8 confirmed by the senate; provided that if a vacancy is created
9 due to the death or resignation of a commissioner, the governor
10 shall appoint an interim appointee who shall serve the remainder
11 of the term of the interim appointee's predecessor. Section 26-
12 34 shall not apply insofar as it relates to the number of terms
13 and consecutive number of years a member can serve on the
14 commission; provided that no member shall serve more than twelve
15 consecutive years.

16 In appointing commissioners, the governor shall select
17 persons who have had experience in accounting, business,
18 engineering, government, finance, law, economics, or other
19 similar fields[-]; provided that at least two members of the
20 commission shall be women, at least one member shall be a
21 resident of a county other than the city and county of Honolulu,



1 and no more than two commissioners may be attorneys. The
2 commissioners shall devote full time to their duties as members
3 of the commission and no commissioner shall hold any other
4 public office or other employment during the commissioner's term
5 of office. No person owning any stock or bonds of any public
6 utility corporation, or having any interest in, or deriving any
7 remuneration from, any public utility shall be appointed a
8 commissioner.

9 Newly appointed commissioners shall attend at least one
10 meeting or training seminar offered by the National Association
11 of Regulatory Utility Commissioners within the first year of the
12 commissioner's appointment. Commissioners may attend additional
13 education and training seminars offered by the National
14 Association of Regulatory Utility Commissioners during the
15 remainder of the commissioners' terms of office to further the
16 commissioners' understanding of changes in the regulatory
17 environment or enhance the commissioners' ability to discharge
18 their duties."

19 2. By amending subsection (e) to read:

20 "(e) Notwithstanding section 26-35(a)(5) to the contrary,
21 the commission's operational expenditures, such as the purchase



1 of supplies, equipment, furniture, dues and subscriptions,
2 travel, consultant services, and staff training, shall be
3 determined by the chairperson and may be delegated to the
4 executive officer appointed and employed pursuant to section
5 269-3; provided that such expenditures shall be subject to all
6 applicable procurement laws and procedures. In addition to the
7 per diem permitted under subsection 269-2(a), the commission's
8 budget shall provide for travel expenses equal to at least one
9 round trip per week for any commissioner who is a resident of a
10 county other than the city and county of Honolulu; provided that
11 the chairperson of the commission shall not have the authority
12 to withhold basic travel requirements from any commissioner who
13 is not a resident of the city and county of Honolulu."

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

16 "**§269-3 Employment of assistants.** (a) The chairperson of
17 the public utilities commission may appoint and employ
18 professional staff and other assistants for the public utilities
19 commission as the chairperson finds necessary for the
20 performance of the commission's functions and define their
21 powers and duties. Notwithstanding section 26-35(a)(4) to the



1 contrary and subject to applicable personnel laws, the
2 employment, appointment, applicable salary schedules, promotion,
3 transfer, demotion, discharge, and job descriptions of all
4 officers and employees of or under the jurisdiction of the
5 commission shall be determined by the [~~chairperson~~]
6 commissioners and may be delegated by the chairperson to the
7 executive officer appointed and employed pursuant to subsection
8 [~~(b)7~~] (c); provided that determinations concerning personnel
9 matters made by the [~~chairperson~~] commissioners or the executive
10 officer, as delegated by the chairperson, may be reviewed by the
11 director of commerce and consumer affairs for completeness and
12 for compliance and conformance with applicable administrative
13 processes and procedures of the department of commerce and
14 consumer affairs. The chairperson may appoint and, at pleasure,
15 dismiss a chief administrator and attorneys as may be necessary,
16 and who shall be exempt from chapter 76. The chief counsel for
17 the commission shall report to the commissioners as a whole and
18 shall not report to the executive officer. The chairperson may
19 also appoint other staff, including a fiscal officer and a
20 personnel officer, with or without regard to chapter 76.



1 (b) Each commissioner, other than the chairperson, may
2 appoint and employ two professional staff people, an attorney or
3 executive assistant and a clerical or support staff person, to
4 assist with that commissioner's duties. Unless specifically
5 appointed to serve a single commissioner, staff appointed
6 pursuant to this section shall function independently and serve
7 all commissioners as needed, and shall not be required to serve
8 a single commissioner.

9 [~~(b)~~] (c) The chairperson of the commission shall appoint,
10 employ, and dismiss, at pleasure, an executive officer who shall
11 be responsible for managing the operations of the commission.
12 The responsibilities of the executive officer shall include
13 management and recruitment of personnel, budget planning and
14 implementation, strategic planning and implementation,
15 procurement and contract administration, and implementation of
16 administrative programs and projects. The executive officer
17 shall not be involved in the development of policy for the
18 commission. The executive officer shall be exempt from chapter
19 76.

20 [~~(e)~~] (d) Notwithstanding section 91-13, the commission
21 may consult with its assistants appointed under authority of



1 this section in any contested case or agency hearing concerning
2 any issue of facts. Neither the commission nor any of its
3 assistants shall in such proceeding consult with any other
4 person or party except upon notice and an opportunity for all
5 parties to participate, save to the extent required for the
6 disposition of ex parte matters authorized by law."

7 SECTION 5. (a) The chairperson of the commission, in
8 conjunction with the other members of the commission, shall work
9 with the departments of commerce and consumer affairs and human
10 resources development to develop clearly defined duties and
11 responsibilities for public utilities commission staff.

12 (b) The commission shall submit a report to the
13 legislature, detailing the duties and responsibilities of public
14 utilities commission staff described in subsection (a), no later
15 than twenty days prior to the convening of the regular session
16 of 2018.

17 SECTION 6. (a) The state auditor shall conduct a
18 management audit to evaluate the efficiency and effectiveness of
19 the public utilities commission and aid in the commission's
20 transition to a better functioning entity. The management audit
21 shall include but not be limited to:



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- 1 (1) The general operations of the public utilities
- 2 commission;
- 3 (2) The organizational structure of the public utilities
- 4 commission, including personnel practices; and
- 5 (3) Any other matters that the auditor deems appropriate.

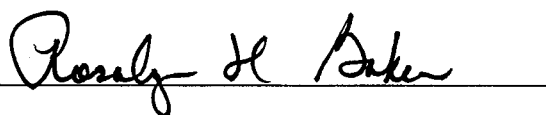
6 (b) The auditor shall report to the legislature with its
 7 findings and recommendations, including any proposed
 8 legislation, no later than twenty days prior to the convening of
 9 the regular session of 2018.

10 SECTION 7. The requirement that at least two members of
 11 the public utilities commission be women, at least one member be
 12 a resident of a county other than the city and county of
 13 Honolulu, and no more than two commissioners may be attorneys,
 14 pursuant to section 3 of this Act, shall apply to the next
 15 appointment to the commission following the effective date of
 16 this Act and thereafter.

17 SECTION 8. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 9. This Act shall take effect upon its approval.

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INTRODUCED BY: 



S.B. NO. 382

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Report Title:

Public Utilities Commission; Commissioners; Structure;
Organization; Per Diem; Teleconference; Videoconference; Audit

Description:

Makes various updates to the structure and operations of the public utilities commission to increase efficiency and effectiveness, including: permitting teleconference and videoconference abilities; updating the composition of the commission; specifying training requirements; clarifying commissioners' ability to appoint and employ staff; permitting neighbor island members to receive per diem compensation and compensation for travel expenses; requiring the commission to report to the legislature regarding certain staff duties; and requiring a management audit of 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.

