

DAVID Y. IGE
GOVERNOR



RODERICK K. BECKER
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY

TESTIMONY BY RODERICK K. BECKER
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 124

FEBRUARY 26, 2019
11:00 a.m.
Room 308

RELATING TO NON-GENERAL FUNDS.

House Bill No. 124 repeals Section 269-33, HRS Public Utilities Commission (PUC) special fund and lapses all unencumbered balances to the general fund effective July 1, 2019 pursuant to recommendation in the Legislative Auditor's report No. 18-17.

We agree with the Legislative Auditor's recommendation that \$663,000 in appropriation account balances remains in two B&F PUC accounts (accounts), the two accounts have been inactive since FY 2015, and should now be closed with any remaining balances transferred the general fund. No active transactions in these two accounts is consistent with the transfer of the PUC from the Department of Budget and Finance (B&F) to the Department of Commerce and Consumer Affairs (DCCA) effective July 1, 2014, pursuant to Act 108, SLH 2014. B&F is working to transfer the un-required balances in the two inactive B&F PUC special fund accounts to the General Fund and expects that to have that done by the end of March 2019.

It does not appear however, that the Legislative Auditor intended for Section 269-33, HRS to be repealed because that would adversely impact operations of both the PUC and Office of the Consumer Advocate (OCP) which are currently funded from the PUC Special Fund. A repeal of Section 269-33, HRS would also require your consideration of the fees that are currently collected by the PUC pursuant to the statutes and are deposited into the PUC Special Fund. Both an alternative source of funding for the PUC and OCP and the disposition of the public utility regulatory fees needs to be addressed if the PUC Special Fund is repealed.

Thank you for giving us an opportunity to provide comments on this bill.

TESTIMONY OF
JAMES P. GRIFFIN, Ph.D.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
HOUSE COMMITTEE ON
FINANCE

February 26, 2019
11:00 a.m.

Chair Luke and Members of the Committee:

MEASURE: H.B. No. 124

TITLE: RELATING TO NON-GENERAL FUNDS.

DESCRIPTION: Repeals the Public Utilities Commission special fund of the Department of Budget and Finance and transfers unencumbered balances to the general fund.

POSITION:

The Public Utilities Commission is **opposed** to this bill and offers the following comments for consideration.

COMMENTS:

The Public Utilities Commission (“Commission”) is opposed to this bill, which would repeal the Commission’s Special Fund (“PUC Special Fund”), pursuant to the recommendation of the Office of the Auditor in the Auditor’s report no. 18-17. This proposed measure would further edit sections in HRS Chapters 92, 269, and 271 which relate to fees that the Commission collects and deposits into the PUC Special Fund.

This bill would fundamentally alter and significantly disrupt the operations of the Commission. The PUC Special Fund is the sole source of funding for the Commission and is the primary source of funding for the Division of Consumer Advocacy (“Consumer Advocate”) of the Department of Commerce and Consumer Affairs. The Commission and the Consumer Advocate rely on the PUC Special Fund for our current and future operations. The PUC Special Fund is also critical to ensuring the independence of the Commission and the Consumer Advocate. Disruption to the operations of the Commission and the Consumer Advocate at this time will impede progress on the State’s clean energy goals and could significantly harm utility customers across the State.

As discussed below, there appears to be a misunderstanding in the Auditor's report No. 18-17 regarding the PUC Special Fund. In particular, it appears some monies held by the Department of Budget and Finance after the Commission was transferred from the Department of Budget and Finance to the Department of Commerce and Consumer Affairs ("DCCA"), were not similarly transferred to DCCA and remain in inactive accounts at the Department of Budget and Finance.

The Auditor's report erroneously refers to these inactive accounts as the "PUC Special Fund" and concludes that the PUC Special Fund does not serve its original purpose. Notwithstanding the conclusion of the Auditor's report, the PUC Special Fund continues to serve its original purpose and is essential to the continued proper functioning of the Commission and the Consumer Advocate.

As such, the Commission respectfully requests this measure be deferred.

Background

Pursuant to Act 108, SLH 2014 ("Act 108"), the Commission was transferred from being administratively attached to the Department of Budget and Finance to being administratively attached to DCCA. When the Commission completed the administrative transfer from the Department of Budget and Finance to DCCA, a new account at DCCA was created for the PUC Special Fund. Thus, pursuant to Act 108, the PUC Special Fund was also transferred from the Department of Budget and Finance to a new account at DCCA, and most of the monies held by the Department of Budget and Finance in the PUC Special Fund were similarly transferred into the new account for the PUC Special Fund at DCCA.

From July 1, 2015 onward, the PUC Special Fund has resided in account # S-340-R under DCCA, and this account has been utilized to collect public utility fees and to fund the operations of the Commission and the Consumer Advocate.¹

According to the Auditor's report no. 18-17, notwithstanding the transfer of the Commission to DCCA, some monies remain in the old accounts at the Department of Budget and Finance. It is unclear why all monies in the old accounts at the Department

¹ The accounts at the Department of Budget and Finance that previously held monies of the PUC Special Fund are account # S-352-O and S-353-O. The account at DCCA that currently holds monies of the PUC Special Fund is account # S-340-R.

of Budget and Finance were not similarly transferred to the PUC Special Fund at DCCA (or transferred to the General Fund), but the Commission has not had access to nor utilized the old accounts at the Department of Budget and Finance since 2015.

In the Auditor’s report, there is a table summarizing financial data for FY 2014-2018 that is erroneously labeled “Public Utilities Commission Special Fund...Section 269-33, HRS” (see page 19). The table shows an ending balance of \$663,000 at the end of FY 2016, with *no transactional activity reported in FY 2017 or FY 2018*. Thus, the Auditor concluded that the fund does not serve its original purpose and should be closed, with its remaining balance transferred to the General Fund.

However, the financial data reported in Auditor’s report 18-17 does not refer to the PUC Special Fund. *Contrary to the implication the Auditor’s report, there was significant activity in the PUC Special Fund in both FY 2017 and FY 2018*. The following tables report revenues to and expenditures/transfers from the PUC Special Fund for the last two fiscal years.

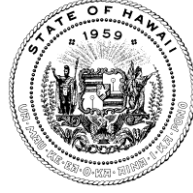
PUC Special Fund Revenues	FY 2017	FY 2018
Public Utility Fees	\$17,193,514	\$14,798,891
Motor Carrier Fees	1,747,764	1,809,299
Hawaii One Call Center Fees	70,553	86,352
Filing Fees and Other Revenues	55,637	160,278
Hawaii Motor Carrier Interest, Penalties, and Fines	80,912	50,511
Total Revenues	\$19,148,380	\$16,905,331

PUC Special Fund Expenditures and Transfers	FY 2017	FY 2018
Personnel	\$5,598,702	\$6,164,141
Other PUC Expenditures	629,241	907,157
<i>PUC Expenditures Subtotal</i>	<i>\$6,227,943</i>	<i>\$7,071,298</i>
Transfer to Central Services	952,147	833,163
Transfer to Consumer Advocate	4,348,405	4,348,405
Transfer for Renovation	1,124,617	81,000
Transfer to the General Fund	5,379,571	3,155,990
Transfer for Administrative Assessments	757,397	452,508
Total	\$18,790,080	\$15,942,364

H.B. No. 124
Page 4

As such, the Commission respectfully requests this measure be deferred.

Thank you for the opportunity to testify on this measure.



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

335 MERCHANT STREET, ROOM 310

P.O. BOX 541

HONOLULU, HAWAII 96809

Phone Number: 586-2850

Fax Number: 586-2856

cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Finance
Tuesday, February 26, 2019
11:00 a.m.
State Capitol, Conference Room 308**

**On the following measure:
H.B. 124, RELATING TO NON-GENERAL FUNDS**

Chair Luke and Members of the Committee:

My name is Dean Nishina, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (DCCA or Department) Division of Consumer Advocacy. The Department opposes this bill.

The purpose of this bill is to repeal the Public Utilities Commission special fund (PUC fund) of the Department of Budget and Finance and transfer unencumbered balances to the general fund.

As currently drafted, the proposed measure seeks to completely eliminate the PUC fund as well as make a number of housekeeping amendments to eliminate any references to the PUC fund. It appears that the basis for the proposed repeal is the Office of the Auditor's Report No. 18-07, Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Budget and Finance, dated November 2018 (Report No. 18-17). Report No. 18-17 states that because the PUC fund "no longer serves the purpose for which it was originally created," the PUC fund no

longer meets the criteria for a special fund and should be closed, with the remaining balance to lapse to the general fund. Report No. 18-17 acknowledges the fund was created “to pay for all operating expenses of the PUC and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, and for costs incurred by DCCA to fulfill its limited oversight and administrative support functions.” To be clear, the PUC fund still meets that very purpose: to pay for all operating expenses of the Public Utilities Commission (Commission) and the Division of Consumer Advocacy. It appears that there may have been some miscommunication or misunderstanding related to the account or accounts created under the Department of Budget and Finance when the Commission was attached to that department. The DCCA defers to the Commission on communications that occurred between the Office of the Auditor and the Commission related to this matter.

It would be incorrect to conclude that the PUC fund is no longer used for its intended purposes, and it would not be in the public interest to eliminate the PUC fund. The creation and existence of the PUC fund is an auditable and transparent means by which the regulated companies and the customers who pay the Public Utility Fee, authorized by Hawaii Revised Statutes section 269-30, are assured that the monies collected are directed toward their intended purpose: to fund the Department’s ability to represent, protect, and advance consumers’ interests, as well as the Commission’s ability to provide effective, proactive, and informed oversight of all regulated entities to ensure they operate at a high level of performance to serve the public fairly, efficiently, safely, and reliably.

Eliminating the PUC fund would raise many uncertainties related to the Commission’s and the Department’s ability to fulfill their respective duties. If the PUC fund is eliminated and the PUC fee is directed entirely to the general fund, questions could be raised as to whether the PUC fee constitutes a tax and whether customers’ payments are inappropriate. In addition, given the number of critical Commission proceedings that are ongoing to address Hawaii’s transition to a clean energy economy, uncertainties regarding the funding for the Commission and the Department could result in undesirable delays in those proceedings and/or reduced regulatory oversight. The

Commission's and the Department's ability to regulate all utility and transportation companies, such as water and wastewater companies, water carriers, and utility gas companies, could be adversely affected without a clear funding mechanism to direct the PUC fee revenues toward the Commission's and Department's operations.

In passing Act 226, Session Laws of Hawaii of 1994, the Legislature created the PUC fund to ensure the Commission and Department would have sufficient resources to provide necessary regulatory oversight. Furthermore, the Legislature found that the Commission proceedings were increasing dramatically in volume and becoming more sophisticated and complex and that the creation of a special fund would ensure sufficient funding and staffing for the Commission and Department to fulfill their mandatory responsibilities. Since 1994, the workload of the Commission and the Department is consistently increasing in volume and complexity, as shown by the myriad issues in the energy, telecommunications, and water/wastewater industries, such as competition, changing customer needs, increasing uncertainty about resources, and environmental considerations. Adequate funding through the PUC fund will ensure the Commission and the Department have sufficient resources to provide the critical services required to effectively regulate Hawaii's public utilities and protect the public interest.

For the foregoing reasons, the Department strongly urges the Committee to hold this measure.

Thank you for the opportunity to testify on this bill.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Repeal non-general funds

BILL NUMBER: HB 124

INTRODUCED BY: LUKE, CULLEN

EXECUTIVE SUMMARY: Repeals the Public Utilities Commission special fund of the Department of Budget and Finance and transfers unencumbered balances to the general fund, in accordance with the State Auditor's recommendation in Report No. 18-17.

SYNOPSIS: Abolishes the Public Utilities Commission special fund.

All unencumbered balances remaining on July 1, 2019, will lapse to the general fund.

Makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2019.

STAFF COMMENTS: This measure implements the state auditor's recommendation in Report No. 18-17.

The 1989 Tax Review Commission noted that use of special fund financing is a "departure from Hawaii's sound fiscal policies and should be avoided." It also noted that special funds are appropriate where the revenues to the funds maintain some direct connection between a public service and the beneficiary of that service. The Commission found that special funds which merely set aside general funds cannot be justified as such actions restrict budget flexibility, create inefficiencies, and lessen accountability. It recommended that such programs can be given priority under the normal budget process without having to resort to this type of financing.

Because of the spotlight of monies in special funds, Hawaii Revised Statutes section 23-12 requires the State Auditor to review all existing special, revolving, and trust funds beginning in 2014 and at five-year intervals. This review assists in making government finances more transparent. This law gave rise to the present report and the recommendations that came with it.

Digested 2/25/2019

**TESTIMONY BEFORE THE
HOUSE COMMITTEE ON FINANCE**

H.B. 124

Relating to Non-General Funds

Tuesday, February 26, 2019
11:00 a.m., Agenda Item # 2
State Capitol, Conference Room 308

Written Testimony Only

Kevin M. Katsura
Director, Regulatory Non-Rate Proceedings
Hawaiian Electric Company, Inc.

Aloha Chair Luke, Vice Chair Cullen, and Members of the Committee,

My name is Kevin M. Katsura and I am testifying on behalf of the Hawaiian Electric Company, Inc., Maui Electric Company, Limited and Hawai'i Electric Light Company, Inc. ("the Hawaiian Electric Companies") in opposition to H.B. 124, Relating to Non-General Funds.

The Hawaiian Electric Companies oppose H.B. 124, which repeals the Public Utilities Commission special fund, because the Hawaii Public Utilities Commission needs adequate resources to render timely decisions on the numerous dockets that are filed by the regulated companies. In addition, the Consumer Advocate also needs adequate resources to provide their statements of positions and develop an adequate record for decision-making before the PUC.

However, we recommend amending this bill to eliminate the lapsing of any PUC special funds to the General Fund, so that all of the funds can be used for the purpose they were originally intended, or alternatively, to benefit ratepayers by lowering the annual fee to only those amounts necessary to fund the PUC and the Consumer

Advocate. These fees were intended to provide adequate funding to ensure the Commission and the Consumer Advocate have sufficient resources to effectively regulate Hawaii's public utilities. These public utilities fees are born by our customers. However, in 2018, 20% of the fees were transferred to the General Fund, which should be funded by the larger group of taxpayers, not just utility customers.

Public utilities are required to pay an annual fee of one-half of one (1) per cent of the gross income of the public utility's previous year's business, paid semi-annually, in July and December. In FY 2018, total Special Fund revenues were \$16,905,331. The majority, 88%, came from public utility fees; 11% came from motor carrier fees; and approximately 1% came from motor carrier interest, penalties, and fines, One Call Center fees and fines, and other sources.

In FY 2018, the Commission's direct expenditures totaled \$7,071,298 and accounted for 45% of total expenditures and transfers from the Commission's Special Fund. 27% was transferred to the Division of Consumer Advocacy pursuant to Hawaii Revised Statute, §269-33.

During the fiscal year, the remaining 28% of expenditures consisted of transfers to other State agencies or to the General Fund: (20% transferred to the General Fund, 5% transferred to the Department of Accounting and General Services for Central Services pursuant to HRS § 36-27, 3% transferred to Department of Commerce and Consumer Affairs for Administrative Support Services pursuant to HRS § 36-30, and 0.5% funded the Office Space and Renovation Project).

Accordingly, the Companies oppose H.B. 124. Thank you for this opportunity to testify.