
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 it is imperative to
2 enable the development of affordable clean energy resources for
3 the benefit of utility customers in the State. Many existing
4 generating units in Hawaii will need to be retired in the next
5 few years due to obsolescence and environmental permitting
6 requirements. The impending retirement of these units makes it
7 urgent to obtain replacement resources, without which the
8 reliability of electrical supplies in the State will be at risk.
9 In addition, continued reliance on these aging units, even if
10 feasible, would result in increased costs for utility customers
11 and continued reliance on fossil fuels, contrary to the State's
12 policy to transition to renewable, non-carbon-emitting
13 resources.

14 The procurement of replacement clean energy resources by a
15 certain investor-owned electric utility and its electric utility
16 subsidiaries is ongoing in its stage 3 request for proposals and
17 further anticipated in its first integrated grid planning



1 request for proposals. These requests for proposals implement
2 energy plans that are developed through extensive engagement
3 with local stakeholders and communities and reviewed and
4 approved by the public utilities commission. The legislature
5 finds that successful procurement of clean energy resources is
6 in the public interest and necessary to avoid significant
7 detrimental reliability and affordability impacts to electric
8 utility customers.

9 The legislature also finds that the development of clean
10 energy resources by independent power producers is essential to
11 achieve the State's goals of one hundred per cent net
12 electricity sales from renewable sources by 2045, a zero
13 emissions economy by 2045, and greater energy security and
14 energy diversification, as established by the Hawaii state
15 planning act and existing public utility laws.

16 The legislature further finds that continued development of
17 clean energy resources requires adequate assurances to
18 independent power producers that prompt and full payments for
19 purchased power will be made, irrespective of the financial
20 strength of an electric utility. The current sub investment
21 grade status of a certain investor-owned electric utility and



1 its subsidiaries, arising from the tragic events that occurred
2 in the 2023 Maui wildfires, has led independent power producers,
3 and those who would finance renewable energy projects, to raise
4 concerns about the reliability of payment by the utility and its
5 subsidiaries under new power purchase agreements. Those
6 concerns may cause independent power producers to cancel
7 renewable energy projects or increase the prices they would
8 charge for deliveries to address this perceived credit risk.
9 Either outcome would be contrary to the interests of electric
10 utility customers in the State.

11 The legislature therefore finds that the risk for
12 independent power producers could be mitigated by requiring the
13 Hawaii electricity reliability administrator to collect and
14 administer funds to be held for the benefit of independent power
15 producers.

16 Accordingly, the purpose of this Act is to:

17 (1) Require the public utilities commission to:

18 (A) Contract for a Hawaii electricity reliability
19 administrator; and

20 (B) Require payment of the Hawaii electricity
21 reliability surcharge;



(2) Establish the wildfire recovery fund; and

(3) Expand the powers and duties of the Hawaii electricity reliability administrator.

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

"PART . WILDFIRE RECOVERY FUND

§269-A Definitions. As used in this part:

"Catastrophic wildfire" means a wildfire occurring in the State on or after the operation date that destroys more than five hundred commercial structures or residential structures designed for habitation.

"Commission" means the public utilities commission.

"Contributor" means a public utility that satisfies all requirements to participate in the wildfire recovery fund.

"Covered catastrophic wildfire" means a catastrophic wildfire that may have been caused, or whose severity may have been increased, by a contributor's facilities or actions.

"Electric utility" means a public utility that exists for the furnishing of electrical power.



1 "Executive director" means the executive director of the
2 wildfire recovery fund under the Hawaii electricity reliability
3 administrator.

4 "Fund" means the wildfire recovery fund established
5 pursuant to section 269-B.

6 "Government entity" means any government agency,
7 department, division, subdivision, unit, component, bureau,
8 commission, office, board, or instrumentality of any kind,
9 including federal, state, and municipal entities.

10 "Investor-owned utility" means a public utility that is
11 owned by shareholders and overseen by a board of directors
12 elected by shareholders.

13 "Operation date" means the first date for contributors to
14 elect to participate in the wildfire recovery fund pursuant to
15 section 269-C(a) and any rules adopted pursuant to this part.

16 "Property insurer" means a person or entity that
17 indemnifies another by a contract of insurance for loss of or
18 damage to real or personal property in the State.

19 "Property owner" means an owner of real property in the
20 State.



1 "Qualifying action" means a civil action by a qualifying
2 claimant to recover qualifying damages.

3 "Qualified claimant" means any property owner, property
4 insurer, or tenant who alleges any qualifying damages.

5 "Qualifying damages" means damages arising out of the loss
6 of or damage to real or personal property from a covered
7 catastrophic wildfire.

8 "Tenant" means a person or entity lawfully entitled to
9 occupy real property in the State that the person or entity does
10 not own.

11 "Wildfire risk mitigation capital expenditures" means
12 investments required by the Hawaii electricity reliability
13 administrator consistent with a wildfire risk mitigation plan.

14 "Wildfire risk mitigation plan" means a plan, which may
15 include a natural hazard mitigation report, in which a public
16 utility addresses how the public utility will mitigate the risk
17 to its equipment in the event of a wildfire.

18 **§269-B Wildfire recovery fund; establishment; executive**
19 **director.** (a) There is established outside the state treasury
20 a wildfire recovery fund and any accounts thereunder to carry
21 out the purposes of this part. All moneys in the fund shall be



1 administered by the Hawaii electricity reliability administrator
2 and expended exclusively for the uses and purposes set forth in
3 this section. The fund shall not be subject to chapter 431.

4 Any moneys in the fund not required for immediate use shall be
5 invested by the executive director for the benefit of the fund
6 or wildfire risk mitigation capital expenditures for the benefit
7 of ratepayer safety; provided that no assets of the fund shall
8 be transferred to the general fund of the State or to any other
9 fund of the State or otherwise encumbered or used for any
10 purpose other than those specified for the fund.

11 (b) The governor shall appoint an advisor to the wildfire
12 recovery fund, who shall be exempt from chapter 76, and shall
13 fix the executive director's compensation.

14 (c) The executive director shall be responsible for the
15 day-to-day operations and management of the fund and shall
16 perform all functions necessary to implement this part,
17 including entering into contracts and other obligations related
18 to the operation, management, and administration of the fund,
19 pursuant to the terms of the contract governing the Hawaii
20 electricity reliability administrator. The executive director



1 may be removed only by the terms of the contract establishing
2 the Hawaii electricity reliability administrator.

3 **§269-C Eligibility for participation as a contributor;**
4 **contributions.** (a) To be eligible to participate as a
5 contributor, a person or entity shall:

6 (1) Be a public utility that has a wildfire risk
7 mitigation plan that has been approved or accepted by
8 the commission;

9 (2) Notify the executive director, in the year before the
10 person or entity becomes a contributor, that it
11 intends to participate in the fund; and

12 (3) Agree to make an initial contribution, the payment of
13 which shall be a binding commitment enforceable by the
14 executive director.

15 (b) The initial contributions from investor-owned electric
16 utilities collectively shall be:

17 (1) \$1,000,000,000 plus interest as provided in
18 subsection (c) for amounts not securitized, which
19 amounts shall be recovered from its customers in
20 nonbypassable rates; and



1 (2) \$500,000,000, which amount shall be funded by
2 shareholders of those investor-owned electric
3 utilities and used exclusively for the payment of
4 salaries of the executive director and of all other
5 persons retained by the executive director to
6 implement this part, with any funds remaining as of
7 2035 to be transferred to the fund.

8 (c) An investor-owned electric utility may elect to make
9 the initial contribution set forth in subsection (b)(1), to the
10 degree not paid for through securitization, over a period not to
11 exceed five years; provided that interest shall be added to any
12 amounts paid after the first year, at an interest rate equal to
13 the investor-owned electric utility's incremental cost of
14 long-term debt, with the interest recovered from customers in
15 rates.

16 (d) The executive director shall determine the initial
17 contributions from other public utilities based on an actuarial
18 assessment of the risk of potential payments by the fund
19 resulting from covered catastrophic wildfires created by a
20 public utility.



1 (e) The executive director may propose supplemental
2 contributions to the fund by participating public utilities,
3 independent power producers, or other entities involved in
4 transmitting or distributing electric energy for sale to the
5 public.

6 (f) If a contributor fails to pay any part of an initial
7 contribution or a supplemental contribution that the contributor
8 agreed to make, or elects not to agree to make a supplemental
9 contribution, that contributor shall no longer be a contributor
10 as of the date on which the payment was due, and the contributor
11 shall not receive any refund of payments previously made;
12 provided that a contributor that elects not to make a
13 supplemental contribution shall be a contributor as to any
14 catastrophic wildfire that occurs before the election date.
15 After failing to, or electing not to, make a payment, a public
16 utility may rejoin the fund as a contributor on a prospective
17 basis if the public utility makes owed payments with interest.

18 (g) The executive director shall adopt rules pursuant to
19 chapter 91 regarding the timing of initial and supplemental
20 contributions, which may include upfront, annual, and



1 retrospective payments, including payments made after a wildfire
2 occurs.

3 (h) Initial and supplemental contributions of
4 investor-owned electric utilities shall constitute wildfire
5 recovery costs.

6 **§269-D Determination of a covered catastrophic wildfire.**

7 The executive director shall adopt rules pursuant to chapter 91
8 regarding how to determine whether a wildfire is a covered
9 catastrophic wildfire. The rules shall include a requirement
10 that a wildfire shall be determined to be a covered catastrophic
11 wildfire if a party makes non-frivolous allegations in a legal
12 action that a contributor's facilities caused or contributed to
13 the severity of a catastrophic wildfire.

14 **§269-E Replenishment of the wildfire recovery fund. (a)**

15 If the fund has made payments with respect to a covered
16 catastrophic wildfire and after resolution of substantially all
17 third-party liability claims that were brought or could be
18 brought against contributors arising from that covered
19 catastrophic wildfire, each contributor whose facilities were
20 implicated in the covered catastrophic wildfire shall initiate a



1 proceeding before the commission to review the prudence of the
2 public utility's conduct leading to the catastrophic wildfire.

3 (b) The commission shall determine whether the contributor
4 acted prudently by:

5 (1) Considering only acts that may have caused the
6 occurrence or contributed to the severity of the
7 covered catastrophic wildfire;

8 (2) Evaluating the contributor's actions in the context of
9 its overall systems, processes, and programs;

10 (3) Considering the recommendations of the executive
11 director concerning the priority of wildfire risk
12 mitigation capital expenditures, and the timeliness of
13 contributor response; and

14 (4) Preventing a finding that any contributor action was
15 prudent if it meets the standard of gross negligence.

16 (c) If the commission determines that imprudent conduct by
17 the contributor caused the occurrence or contributed to the
18 severity of a covered catastrophic wildfire, the commission
19 shall determine whether to order the contributor to replenish
20 the fund in whole or in part for payments from the fund in
21 connection with the catastrophic wildfire. In determining the



1 amount of replenishment, if any, the commission shall consider
2 the extent and severity of the contributor's imprudence and
3 factors within and beyond the contributor's control that may
4 have led to or exacerbated the costs from the covered
5 catastrophic wildfire, including but not limited to humidity,
6 temperature, winds, fuel, merged wildfires with independent
7 ignitions, third-party actions that affected the spread of the
8 wildfire, and fire suppression activities.

9 (d) For wildfire risk mitigation capital expenditures made
10 by the executive director, the commission may determine whether
11 to order the contributor to replenish the fund in whole or in
12 part for payments from the fund in connection with the wildfire
13 risk mitigation capital expenditures.

14 (e) Over any three-year period, the commission shall not
15 order the contributor to reimburse the fund in an amount that
16 exceeds twenty per cent of the contributor's transmission and
17 distribution equity rate base.

18 (f) A contributor shall not recover in regulated rates any
19 amount that the commission orders the contributor to pay to the
20 fund as a replenishment under this section.



1 **§269-F Claims for payment by qualified claimants;**
2 **presentment requirement; wildfire risk mitigation capital**
3 **expenditures by executive director.** (a) The executive director
4 shall adopt rules pursuant to chapter 91 to create a process:

5 (1) Through which a qualified claimant that is not a
6 government entity may submit to the fund a claim for
7 payment of economic damages arising out of property
8 damage resulting from a covered catastrophic wildfire,
9 including a deadline to submit claims; and

10 (2) By which the executive director can use the fund to
11 make wildfire risk mitigation capital expenditures.

12 (b) A qualified claimant shall file a claim for payment
13 for economic damages arising out of the loss of or damage to
14 real or personal property from a covered catastrophic wildfire
15 pursuant to this section. The claim of a qualified claimant
16 that is not a property insurer shall be limited to uninsured
17 economic damages. A qualified claimant shall not file or
18 maintain a civil action against a contributor unless and until
19 the qualified claimant rejects an offer of settlement from the
20 fund. A qualified claimant who fails to file a claim by the
21 deadline established by the executive director pursuant to rule



1 shall be ineligible to receive payment from the fund and shall
2 be barred from instituting or maintaining any qualifying action
3 against a contributor.

4 (c) The executive director shall make an offer to settle
5 each claim submitted, which the claimant may accept or reject.
6 In determining the amount of each offer, the executive director
7 shall consider, at a minimum:

8 (1) The economic damages sought by all qualified claimants
9 in the aggregate;

10 (2) The amount available to the fund relative to the
11 amount under paragraph (1);

12 (3) The weight of any evidence of contributor liability;
13 and

14 (4) The weight of any evidence of involvement of
15 non-contributor third-parties.

16 (d) If the amount available to the fund, including assets
17 held by the fund and all payments contributors are obligated to
18 make to the fund, is less than fifty per cent of the aggregate
19 liability limit as calculated in section 269-H, the fund shall
20 make payment only to contributors pursuant to section 269-G.



1 (e) Wildfire risk mitigation capital expenditures
2 undertaken by the executive director shall be chosen to reduce
3 urgent risks that substantially increase the likelihood or
4 magnitude of qualifying damages in the event of a covered
5 catastrophic wildfire; provided that the expenditures shall be
6 approved by the commission and shall not exceed a level to
7 prevent claims for payment before the fund can be replenished.

8 **§269-G Claims for payment by contributors; rules.** The
9 executive director shall adopt rules pursuant to chapter 91 to
10 create a process through which a contributor may obtain payment
11 from the fund to satisfy settled or finally adjudicated claims
12 for recovery of qualifying damages after exhausting the
13 contributor's available insurance. The rules shall establish
14 the standard for approving any settlement. To the extent that
15 the fund lacks sufficient funds to make a payment to a
16 participating utility when sought, the fund shall make the
17 payment upon receipt of contributions that contributors are
18 obligated to make to the fund under payment schedules.

19 **§269-H Limitation on aggregate liability.** (a) The
20 aggregate liability of all contributors for qualifying damages



1 arising from a covered catastrophic wildfire, including economic
2 and non-economic damages, shall not exceed the lesser of:

3 (1) \$500,000,000; or

4 (2) The average assessed value of commercial structures
5 and residential structures designed for habitation in
6 the county in which the covered catastrophic wildfire
7 occurred, multiplied by the number of commercial
8 structures or residential structures designed for
9 habitation that were destroyed, plus the value of
10 personal property lost; or

11 (3) The aggregate assessed replacement value of commercial
12 structures and residential structures designed for
13 habitation in the county in which the covered
14 catastrophic wildfire occurred, plus the value of
15 personal property lost.

16 (b) The following amounts shall be added to determine
17 whether the aggregate liability limit has been reached:

18 (1) Payments from the fund pursuant to section 269-F; and

19 (2) Payments by a contributor in connection with any
20 settlement or judgment on a claim for qualifying
21 damages.



(c) All civil actions arising out of a catastrophic wildfire shall be brought in the circuit in which the catastrophic wildfire occurred. The court shall adopt procedures to equitably apply the limit set forth in subsection (a) to all filed civil claims. All settlements or judgments for claims for qualifying damages shall be subject to approval by the court. The court shall not approve any settlement or judgment that would cause the aggregate liability of contributors to exceed the aggregate liability limit.

(d) A court shall consolidate cases arising from a covered catastrophic wildfire. Any circuit court that is not the consolidating court shall transfer any civil case to facilitate the consolidation.

§269-I Limitations on claims. (a) No qualifying action may be instituted or maintained by a qualified claimant against contributors or their affiliates, employees, agents, or insurers if the qualified claimant accepts an offer under section 269-F; provided that the rights of a property insurer to bring an action as a subrogee of its policyholder shall not be affected by a property owner's or tenant's acceptance of an offer under section 269-F and the subrogation rights shall be affected only



1 if the property insurer elects to accept an offer under
2 section 269-F.

3 (b) No suit, claim, arbitration, or other civil legal
4 action for indemnity or contribution for amounts paid, or that
5 may be paid, as a result of a covered catastrophic wildfire,
6 shall be instituted or maintained by any persons or entities
7 against contributors or their affiliates, employees, agents, or
8 insurers for damages arising out of the loss of or damage to
9 real or personal property from a covered catastrophic wildfire.

10 **§269-J Several liability.** Any law to the contrary
11 notwithstanding, joint and several liability shall not apply to
12 any qualifying damages; provided that, in any action to recover
13 qualifying damages from a person or entity, the person or entity
14 may claim, in defense, apportionment of fault to any other
15 person or entity regardless of whether that person or entity is
16 a party to the action.

17 **§269-K Reporting; refunds authorized by legislature.** (a)
18 The executive director shall submit to the legislature an annual
19 report regarding the fund no later than ninety days before the
20 beginning of each regular session through 2034. The annual plan



1 submitted by the executive director shall include an update on
2 the activities of the fund.

3 (b) No later than ninety days before the regular session
4 of 2035, the executive director shall submit a report to the
5 legislature regarding the financial status and resources of the
6 fund relative to the then-current assessment of actuarial risk
7 of a catastrophic wildfire.

8 (c) Based on the report in subsection (b), the legislature
9 may determine, based on recommendation by the executive
10 director, that the fund is overfunded and direct the executive
11 director to refund contributions, in whole or in part. Any
12 payments made to the fund that were recovered in regulated rates
13 from customers, and any investment earnings associated with
14 those payments, shall be refunded first.

15 **§269-L Admissibility of evidence.** Any findings made or
16 evidence submitted for purposes of proceedings under sections
17 269-D, 269-F, and 269-G shall be subject to the limits of
18 admissibility under rule 408, Hawaii rules of evidence."

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



1 "[~~f~~]**\$269-16.22**[~~f~~] **Power purchase agreements; cost recovery**
2 **[~~for electric utilities~~]**. All power purchase costs, including
3 costs related to capacity, operations and maintenance, and other
4 costs that are incurred by an electric utility company[~~7~~] or
5 electricity reliability administrator, arising out of power
6 purchase agreements that have been approved by the public
7 utilities commission and are binding obligations [~~on the~~
8 ~~electric utility company,~~] to purchase power, shall be allowed
9 to be recovered by the utility or electricity reliability
10 administrator from the customer base of the electric utility
11 company through one or more adjustable surcharges, which shall
12 be established by the public utilities commission. The costs
13 shall be allowed to be recovered if incurred as a result of
14 [~~such~~] the agreements unless, after review by the public
15 utilities commission, any [~~such~~] costs are determined by the
16 commission to have been incurred in bad faith, out of waste, out
17 of an abuse of discretion, or in violation of law.

18 For purposes of this section[~~7~~, ~~an "electric~~]:

19 "Electricity reliability administrator" means the Hawaii
20 electricity reliability administrator established under part IX.



1 "Electric utility company" means a public utility as
2 defined under section 269-1, for the production, conveyance,
3 transmission, delivery, or furnishing of electric power."

4 SECTION 4. Section 269-27.2, Hawaii Revised Statutes, is
5 amended by amending subsections (b) and (c) to read as follows:

6 "(b) The public utilities commission may direct public
7 utilities that supply electricity to the public or the Hawaii
8 electricity administrator established under part IX to arrange
9 for the acquisition of and to acquire electricity generated from
10 nonfossil fuel sources as is available from and the producers
11 are willing and able to make available [~~to the public~~
12 ~~utilities,~~] for sale, and to employ and dispatch the nonfossil
13 fuel generated electricity in a manner consistent with the
14 availability thereof to maximize the reduction in consumption of
15 fossil fuels in the generation of electricity to be provided to
16 the public~~[-]~~; provided that:

17 (1) The commission shall have an opportunity to review
18 selections before power purchase contract negotiations
19 begin;



1 (2) Power plants relying on combustion shall commit to
2 using low carbon fuels upon commencement of operations
3 to be eligible as nonfossil generators;

4 (3) Procurement of resources shall be on a rolling basis,
5 to the extent practicable; and

6 (4) An entity in which an investor-owned electric utility
7 owns sixty per cent or more of the entity that is
8 selling electricity to the public for profit, or is
9 the parent entity of an electric utility selling
10 electricity to the public, shall not qualify as an
11 independent power producer.

12 (c) The rate payable by the public utility or electricity
13 reliability administrator to the producer for the nonfossil fuel
14 generated electricity supplied to the public utility shall be as
15 agreed between the public utility or electricity reliability
16 administrator and the supplier and as approved by the public
17 utilities commission; provided that in the event the public
18 utility and the supplier fail to reach an agreement for a rate,
19 the rate shall be as prescribed by the public utilities
20 commission according to the powers and procedures provided in
21 this part.



1 The commission's determination of the just and reasonable
2 rate shall be accomplished by establishing a methodology that
3 removes or significantly reduces any linkage between the price
4 of fossil fuels and the rate for the nonfossil fuel generated
5 electricity to potentially enable utility customers to share in
6 the benefits of fuel cost savings resulting from the use of
7 nonfossil fuel generated electricity. As the commission deems
8 appropriate, the just and reasonable rate for nonfossil fuel
9 generated electricity supplied to the public utility by the
10 producer may include mechanisms for reasonable and appropriate
11 incremental adjustments, such as adjustments linked to consumer
12 price indices for inflation or other acceptable adjustment
13 mechanisms."

14 SECTION 5. Section 269-146, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~[+]~~**\$269-146**~~[+]~~ **Hawaii electricity reliability surcharge;**
17 **authorization; cost recovery.** (a) The commission ~~[may]~~ shall
18 require, by rule or order, that all utilities, persons,
19 businesses, or entities connecting to the Hawaii electric
20 system, or any other user, owner, or operator of any electric
21 element that is a part of an interconnection on the Hawaii



1 electric system shall pay a surcharge that shall be collected by
2 Hawaii's electric utilities[+] on behalf of the Hawaii
3 electricity reliability administrator. The commission shall not
4 contract or otherwise delegate the ability to create the Hawaii
5 electricity reliability surcharge under this section to any
6 other entity. This surcharge amount shall be known as the
7 Hawaii electricity reliability surcharge.

8 (b) Amounts collected through the Hawaii electricity
9 reliability surcharge shall be transferred, in whole or in part,
10 to any entity contracted by the commission to act as the Hawaii
11 electricity reliability administrator provided for under this
12 part.

13 (c) The Hawaii electricity reliability surcharge shall be
14 used for the purposes of ensuring the reliable operation of the
15 Hawaii electric system and overseeing grid access on the Hawaii
16 electric system through the activities of the Hawaii electricity
17 reliability administrator contracted under section 269-147[+]
18 and shall be used exclusively to satisfy the Hawaii electricity
19 reliability administrator's authorities and obligations to pay
20 all accounts payable to independent power producers under power
21 purchase agreements approved by the commission pursuant to



1 section 269-27.2 and the wildfire recovery fund established
2 pursuant to section 269-B; provided that amounts collected under
3 the Hawaii electricity reliability surcharge shall not be
4 available to meet any current or past general obligations of the
5 State.

6 (d) The commission may allow an electric utility, on
7 behalf of the Hawaii electricity reliability administrator, to
8 recover appropriate and reasonable costs under the Hawaii
9 electricity reliability surcharge for any interconnection to the
10 Hawaii electric system, including interconnection studies and
11 other analysis associated with studying the impact or necessary
12 infrastructure and operational requirements needed to reliably
13 interconnect a generator, as well as from electric utility
14 customers through a surcharge or assessment subject to review
15 and approval by the commission under section 269-16.

16 (e) Nothing in this section shall create or be construed
17 to cause amounts collected through the Hawaii electricity
18 reliability surcharge to be considered state or public moneys
19 subject to appropriation by the legislature or be required to be
20 deposited into the state treasury[-], nor shall any amounts
21 collected be considered a utility's property available to



1 satisfy an obligation of that utility for any purpose other than
2 the terms of a power purchase agreement established before any
3 electric utility default or the wildfire recovery fund
4 established pursuant to section 269-B."

5 SECTION 6. Section 269-147, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~[§]~~269-147~~[§]~~ **Hawaii electricity reliability**
8 **administrator; contracting.** (a) The commission ~~[may]~~ shall
9 contract for the performance of its functions under this part
10 with a person, business, or organization, except for a public
11 utility as defined under this chapter, that will serve as the
12 Hawaii electricity reliability administrator provided for under
13 this part; provided that the commission shall not contract for
14 the performance of its functions under sections 269-142(a) and
15 (b) and 269-146.

16 (b) Any entity contracted by the commission to serve as
17 the Hawaii electricity reliability administrator under this
18 section shall be selected by the commission in accordance with
19 state law, including chapter 103D. The Hawaii electricity
20 reliability administrator, ~~[if so]~~ when enabled by the
21 commission through mutual agreement under the laws of the State



1 of Hawaii, shall hold the powers and rights delegated by the
2 commission under this part for the term of the executed
3 contract; provided that the commission shall retain full
4 authority over the Hawaii electricity reliability administrator
5 and the exclusive authority to carry out functions and
6 responsibilities enumerated under sections 269-142(a) and (b)
7 and 269-146."

8 SECTION 7. Section 269-148, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+]§269-148[+] **Hawaii electricity reliability**
11 **administrator; qualifications.** Any entity contracted by the
12 commission to serve as the Hawaii electricity reliability
13 administrator shall:

14 (1) Satisfy the qualification requirements established by
15 the commission by rule or order[+], including
16 experience making prompt and full payments while
17 serving as a trust manager, escrow officer, or similar
18 role;

19 (2) Maintain reasonable and necessary staffing with
20 appropriate skills and expertise to offer prudent and
21 reasonable recommendations on the development of



1 reliability standards and interconnection requirements
2 adopted by the commission under this part, including
3 the technical skills required to properly monitor
4 operations of the Hawaii electric system using
5 information provided under section 269-143[+]; to
6 reliably add independent power producers to the
7 electric system under sections 269-142, 269-145, and
8 269-145.5, among others; and evaluate lifecycle
9 greenhouse gas emissions of proposed independent power
10 producers, as required by section 269-6; and

11 (3) Maintain reasonable and necessary staffing with an
12 appropriate level of independence to fairly and
13 impartially review matters concerning interconnection
14 to the Hawaii electric system under section 269-145,
15 including independence of the entity from any electric
16 utility, any user, owner, or operator of the Hawaii
17 electric system, or any other person, business, or
18 entity connecting to the Hawaii electric system."

19 SECTION 8. In codifying the new sections added by
20 section 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 9. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect on May 13, 2040.



Report Title:

Energy; PUC; Hawaii Electricity Reliability Administrator;
Hawaii Electricity Reliability Surcharge; Wildfire Recovery
Fund; Independent Power Purchasers

Description:

Requires, rather than allows, the Public Utilities Commission to contract for a Hawaii Electricity Reliability Administrator and require payment of the Hawaii electricity reliability surcharge. Establishes the Wildfire Recovery Fund. Expands the powers and duties of the Hawaii Electricity Reliability Administrator. Effective 5/13/2040. (SD1)

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