

ACT 183

H.B. NO. 1004

A Bill for an Act Relating to Consumer Advocacy.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Progressive energy policy-making on the state level is one of the most important issues on the legislative agenda. Regulatory reform, specifically in the public utilities commission and the division of consumer advocacy of the department of commerce and consumer affairs, is essential to the successful implementation of recent and future energy policy reform. Recent legislation relies on professional staff in the agencies to use their skills and experience in various areas relating to public utilities to research, analyze, examine, and process legislative mandates.

The current organization of the division of consumer advocacy has not kept up with the recent changes made by legislation in the regulatory conditions, duties, and requirements of the division, diminishing its ability to perform effectively in the following ways:

- (1) Difficulty recruiting and retaining qualified individuals to fill specialized positions that require skills and experience that involve the performance of certain functions;
- (2) Specialized job requirements that do not correspond with existing position descriptions and classifications;
- (3) Bureaucratic obstacles in changing existing position descriptions and classifications;
- (4) Salaries that are substantially below mainland agency or private sector equivalents, especially considering the demanding and arduous job requirements; and
- (5) Agency organizational structures that are archaic and unresponsive of efficient work flow or the matching of human resources to the required tasks.

Act 143, Session Laws of Hawaii 2006, was passed to obtain an in-depth review of the division of consumer advocacy's organization and to develop a comprehensive plan to effectively restructure and supplement the division and its resources to function more effectively and efficiently. A report was submitted to the legislature in December 2006 by the division, specifying, as requested, the specific types and numbers of positions and the amounts necessary to restructure the division and supplement its resources.

The purpose of this part is to enhance the ability of the division of consumer advocacy to carry out its duties and responsibilities by:

- (1) Requiring the division to restructure its operations pursuant to the division's December 2006 report to the legislature to improve its effectiveness and efficiency; and
- (2) Appropriating funds to meet the costs incurred as a result of the restructuring process.

SECTION 2. (a) The division of consumer advocacy, department of commerce and consumer affairs, shall restructure its operations as provided for in the division's report to the legislature required pursuant to Act 143, Session Laws of Hawaii, 2006.

- (b) The restructuring shall include the following:

- (1) The existing financial analysis branch shall be renamed the regulatory analysis branch and shall house the integrated resource planning analyst, telecommunications analyst, and four auditor positions, which shall be redescribed as researcher analysts and conduct research and analysis in rate case and other proceedings and research new developments in utility regulation;
 - (2) The new regulatory analysis branch shall be expanded to add two additional exempt positions for researcher analysts;
 - (3) The existing economics and pricing branch shall be renamed the rate analysis branch, and the economist and research statisticians shall be redescribed as utility rate analysts, who will review applications for rate increases and tariff or rule amendments;
 - (4) Both the new regulatory analysis and rate analysis branches shall be supervised by a branch chief within the same class as the analysts and researchers within their respective branches to aid recruitment and retention efforts, ensure job satisfaction and personal growth, and encourage upward mobility within the branches; and
 - (5) Professional staff shall be encouraged to participate in staff training seminars to obtain a general understanding of the subject matter and receive regular updates to regulatory conditions.
- (c) Upon request by the division of consumer advocacy, all other state and county agencies shall assist the division in carrying out this part. The departments of human resources development and budget and finance shall continue to work cooperatively with the division as is deemed necessary by the division, to:
- (1) Rename or redescribe job descriptions;
 - (2) More closely correlate the actual work of the professional staff with the types of positions within the division; and
 - (3) Provide those positions with, where reasonable and equitable, more compensation to attract qualified applicants to the division.
- (d) Nothing in this section shall be construed to limit any existing authority of the department of commerce and consumer affairs to restructure the division of consumer advocacy without prior legislative approval.

SECTION 3. Section 269-52, Hawaii Revised Statutes, is amended to read as follows:

“§269-52 Division of consumer advocacy; personnel. There shall be a division of consumer advocacy within the department of commerce and consumer affairs to provide administrative support to the director of commerce and consumer affairs acting in the capacity of consumer advocate. The director may employ and at pleasure dismiss an executive administrator, who shall be exempt from chapter 76, may define the executive administrator’s powers and duties, and fix the executive administrator’s compensation. The director may employ engineers, accountants, investigators, clerks, and stenographers as may be necessary for the performance of the consumer advocate’s functions, in accordance with chapter 76; provided that:

- (1) The director may employ up to [~~four~~] ten utility analysts exempt from chapter 76; and
- (2) Each analyst shall possess at least the minimum qualifications required of comparable experts in the relevant industry.”

SECTION 4. There is appropriated out of the public utilities commission special fund the sum of \$168,000 for fiscal year 2007-2008 and the sum of \$168,000 for fiscal year 2008-2009 to be deposited into the compliance resolution fund.

SECTION 5. There is appropriated out of the compliance resolution fund the sum of \$168,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$168,000 or so much thereof as may be necessary for fiscal year 2008-2009 for two permanent utility analyst positions exempt from chapter 76, Hawaii Revised Statutes, in the division of consumer advocacy, department of commerce and consumer affairs.

The sums appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this part.

SECTION 6. There is appropriated out of the public utilities commission special fund the sum of \$30,000 for fiscal year 2007-2008 and the sum of \$30,000 for fiscal year 2008-2009 to be deposited into the compliance resolution fund.

SECTION 7. There is appropriated out of the compliance resolution fund the sum of \$30,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the sum of \$30,000 or so much thereof as may be necessary for fiscal year 2008-2009 to send the professional staff of the division of consumer advocacy to specialized training seminars to obtain a general understanding of the subject matter and receive regular updates of regulatory condition changes.

The sums appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this part.

PART II

SECTION 8. (a) The legislature finds that despite a broad range of identity theft legislation enacted by the legislature in 2006 through Act 140, Session Laws of Hawaii 2006, identity theft remains a critical issue for Hawaii consumers. In fact, the revelation early in 2007 that personal data of 11,500 families enrolled in a program for low-income women and children was at risk after a department of health employee allegedly stole information from a client database has revealed the continued threat posed by identity theft.

A recurring concern in legislative hearings on identity theft was the use of a social security number as a means of identification and the vulnerability of that information.

Act 140, Session Laws of Hawaii 2006, changed the name of the Hawaii anti-phishing task force to the identity theft task force and extended the duration of the task force to December 31, 2007. With staffing and research assistance provided by the office of the auditor, the task force continues to focus on:

- (1) Examining state agencies charged with the responsibility of developing policies, procedures, and operations to prevent, monitor, and enforce electronic commerce-based criminal activities and sanctions;
- (2) Deriving best practice models from the review of other jurisdictions' activities, policies, and laws related to the prevention of electronic commerce-based crimes;
- (3) Exploring other options available to the task force to deter electronic commerce-based crimes from occurring in the State; and
- (4) Establishing findings and recommendations on electronic commerce-based crime prevention.

(b) The purpose of this part is to further these and other proactive efforts to protect Hawaii consumers by appropriating funds to the office of the auditor for continued research and support services necessary to develop additional deterrents for identity theft.

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SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2007-2008 for research and support services necessary to protect Hawaii consumers by developing additional deterrents for identity theft, and in particular those related to the compromise of electronic data and information, and social security numbers in public records.

The sum appropriated shall be expended by the office of the auditor for the purposes of this part.

PART III

SECTION 10. The purpose of this part is to allow business and government an additional year to comply with the provisions of Act 137, Session Laws of Hawaii 2006, relating to social security number protection.

SECTION 11. Act 137, Session Laws of Hawaii 2006, is amended by amending section 3 to read as follows:

“SECTION 3. This Act shall take effect on July 1, [~~2007~~] 2008.”

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect on June 30, 2007; provided that sections 4, 5, 6, 7, and 9 of this Act shall take effect on July 1, 2007.

(Approved June 15, 2007.)