

ACT 54

H.B. NO. 2390

A Bill for an Act Relating to Renewable Energy.

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

SECTION 1. The legislature finds that Hawaii is an isolated island chain that is uniquely vulnerable to climate change. As evidenced by the August 2023 Maui wildfires that devastated Lahaina and impacted areas of west Maui and other communities, climate disasters increasingly threaten the State's well-being.

Act 109, Session Laws of Hawaii 2011 (Act 109), amended section 269-6, Hawaii Revised Statutes, to require the public utilities commission to explicitly consider the effect of the State's reliance on fossil fuels in various areas, including greenhouse gas emissions, in its determinations of the reasonableness of various costs. When Act 109 was being considered, the legislature found that "Hawaii is dangerously reliant on imported fossil fuel, which subjects the State and residents to greater oil and gas price volatility, increased air pollution, and potentially harmful climate change due to the release of harmful greenhouse gases". The committee also found that requiring the commission to factor in the hidden and long-term costs of the State's detrimental reliance on fossil fuels when exercising its statutory authority would assist in reducing the State's reliance on fossil fuels.

The purpose of this Act is to require the public utilities commission to explicitly consider the effect of the State's reliance on fossil fuels on lifecycle greenhouse gas emissions and give the commission the discretion to waive a lifecycle greenhouse gas emissions assessment for energy projects that do not involve combustion.

SECTION 2. Section 269-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Lifecycle greenhouse gas emissions assessment" means the evaluation of potential greenhouse gas emissions over the course of a product, program, or project's lifetime or stages of production, construction, operations, and decommissioning, which includes but is not limited to, as applicable, upstream stages such as extraction and processing of raw materials, manufacturing and processing of materials, and transportation; operations stages such as the use of any fuels or feedstocks and the production of any materials; and downstream stages such as transportation, decommissioning, recycling, and the final disposal."

SECTION 3. Section 269-6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) The public utilities commission shall have the general supervision hereinafter set forth over all public utilities, and shall perform the duties and exercise the powers imposed or conferred upon it by this chapter. Included among the general powers of the public utilities commission is the authority to adopt rules pursuant to chapter 91 necessary for the purposes of this chapter.

(b) The public utilities commission shall consider the need to reduce the State's reliance on fossil fuels through energy efficiency and increased renewable energy generation in exercising its authority and duties under this chapter. In making determinations of the reasonableness of the costs pertaining to electric or gas utility system capital improvements and operations, the public utilities commission shall explicitly consider, quantitatively or qualitatively, the effect of the State's reliance on fossil fuels on:

- (1) Price volatility;
- (2) Export of funds for fuel imports;
- (3) Fuel supply reliability risk; and
- (4) [~~Greenhouse~~] Lifecycle greenhouse gas emissions[-]; provided that the public utilities commission may waive the requirement for a lifecycle greenhouse gas emissions assessment for energy projects that do not involve combustion.

The public utilities commission may determine that short-term costs or direct costs of renewable energy generation that are higher than alternatives relying more heavily on fossil fuels are reasonable, considering the impacts resulting from the use of fossil fuels. The public utilities commission shall determine whether such analysis is necessary for proceedings involving water, wastewater, or telecommunications providers on an individual basis.”

2. By amending subsections (d) through (f) to read:

“(d) In exercising its authority and duties under this chapter, the public utilities commission shall consider the costs and benefits of a diverse [~~fossil fuel~~] portfolio of energy resources and of maximizing the efficiency of all electric utility assets to lower and stabilize the cost of electricity. Nothing in this section shall subvert the obligation of electric utilities to meet the renewable portfolio standards set forth in section 269-92.

(e) The public utilities commission, in carrying out its responsibilities under this chapter, shall consider whether the implementation of one or more of the following economic incentives or cost recovery mechanisms would be in the public interest:

- (1) The establishment of a shared cost savings incentive mechanism designed to induce a public utility to reduce energy costs and operating costs and accelerate the implementation of energy cost reduction practices;
- (2) The establishment of a renewable energy curtailment mitigation incentive mechanism to encourage public utilities to implement curtailment mitigation practices when lower cost renewable energy is available but not utilized through the sharing of energy cost savings between the public utility, ratepayer, and affected renewable energy projects;
- (3) The establishment of a stranded cost recovery mechanism to encourage the accelerated retirement of an electric utility fossil fuel electric generation plant by allowing an electric utility to recover the stranded costs created by early retirement of a fossil fuel generation plant; and
- (4) The establishment of differentiated authorized rates of return on common equity to encourage increased utility investments in transmission and distribution infrastructure, discourage [~~an~~] electric utility investment in fossil fuel electric generation plants to incentivize grid modernization, and disincentivize fossil fuel generation, respectively.

(f) The chairperson of the public utilities commission may appoint a hearings officer, who shall not be subject to chapter 76, to hear and recom-

mend decisions in any proceeding before it other than a proceeding involving the rates or any other matters covered in the tariffs filed by the public utilities. The hearings officer shall have the power to take testimony, make findings of fact and conclusions of law, and recommend a decision; provided that the findings of fact, the conclusions of law, and the recommended decision shall be reviewed and may be approved by the public utilities commission after notice to the parties and an opportunity to be heard. The hearings officer shall have all of the above powers conferred upon the public utilities commission under section 269-10.”

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

SECTION 5. This Act shall take effect upon its approval.

(Approved June 20, 2024.)