

Report Title:

Utilities; Receivership

Description:

Guarantees the operation of water and sewer services to Hawaii residents by allowing the Public Utility Commission to take necessary action and appoint receivers whenever regulated public utilities fail to provide adequate and reasonable service.

(SD1)

A BILL FOR AN ACT

RELATING TO PUBLIC UTILITIES.

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

1 SECTION 1. The legislature finds that the health and
2 welfare of the State's citizens depend in large part on their
3 ability to access essential water and sewer services. The state
4 public utilities commission regulates water and sewer services
5 provided by private companies but does not regulate the same
6 services provided by the counties. To ensure that the
7 commission has all the necessary authority to take proactive
8 measures on behalf of customers when a regulated water or sewer
9 utility either fails to provide adequate and reasonable service
10 to its customers or creates a serious and imminent threat to the
11 health and welfare of its customers, the legislature believes
12 that the commission should have the power to appoint a receiver
13 to ensure that utility services are continued or brought back up
14 to appropriate standards.

15 The purpose of this Act is to provide the public utilities
16 commission with authority to appoint a receiver to take

1 temporary action necessary to assure continued adequate water or
2 sewer service.

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

6 **"§269- Appointment of receiver for public utilities.**

7 (a) Whenever the commission finds that a regulated water
8 utility or regulated sewer utility is failing, or that there is
9 an imminent threat of the utility failing, to provide adequate
10 and reasonable service to its customers, and that the failure is
11 a serious and imminent threat to health, safety, and welfare,
12 the commission may appoint a receiver to take any temporary
13 action necessary to assure continued service or to bring the
14 service up to appropriate regulatory standards. The commission
15 may also appoint a receiver to take any temporary action
16 necessary to assure continued service if, after notice and
17 hearing, the commission finds that any water or sewer utility
18 regulated under this chapter consistently fails to provide
19 adequate and reasonable service. In carrying out its
20 responsibilities, the receiver and any additional outside legal
21 counsel, consultants, or staff the commission or receiver may
22 deem necessary under the circumstances, shall have the authority

1 to gain access to all of the utility company assets and records
2 and to manage those assets in a manner that will restore or
3 maintain an acceptable level of service to customers. The
4 receiver shall be authorized to expend existing utility company
5 revenues for labor and materials and to commit additional
6 resources as are essential to providing an acceptable level of
7 service. These expenditures shall be funded in accordance with
8 generally accepted ratemaking practices. Any costs incurred by
9 the commission, its staff, or the appointed receiver under this
10 section shall be the responsibility of the utility in
11 receivership or its ratepayers. Control of and responsibility
12 for the utility shall remain with the receiver until the utility
13 can be returned to the original owners, transferred to new
14 owners, or liquidated as the commission determines to be in the
15 public interest.

16 (b) If the commission determines that the utility's action
17 or inaction that caused it to be placed under the control and
18 responsibility of a receiver under this section was due to
19 intentional misappropriation or wrongful diversion of the assets
20 or income of the utility or to other wilful misconduct by any
21 director, officer, or manager of the utility, it may require

1 such director, officer, or manager to make restitution to the
2 utility."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect upon its approval.