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# A BILL FOR AN ACT

RELATING TO ELECTRIC UTILITIES.

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

1           SECTION 1. The legislature finds that electricity  
2 generation projects in Hawaii that require external financing  
3 must typically enter into one or more long-term power purchase  
4 agreements with an electric utility before investors will  
5 provide financing. For financial rating agencies that observe  
6 and evaluate the effect of these power purchase agreements,  
7 including Standard & Poor's, such contracts represent the  
8 transfer of business viability risk assumption from the project  
9 developer to the electric utility. To properly calculate a  
10 contracting utility's new level of debt-related risk, this  
11 transfer of risk assumption further causes the financial rating  
12 agencies to represent, or impute, the impact of a power purchase  
13 agreement to the contracting electric utility's balance sheet in  
14 the form of a new debt obligation. This new obligation is  
15 typically referred to as imputed debt or debt equivalence.

16           Rating agencies may impute to a utility's debt level an  
17 amount up to fifty per cent or more of the existing payments on  
18 a power purchase agreement, resulting in significant amounts of



1 imputed debt hampering a contracting utility's debt rating and  
2 impeding that utility's debt financing. Compensating factors,  
3 including legislative provisions for the mitigation of imputed  
4 debt on utility companies' balance sheets, are important  
5 variables in either raising or lowering debt equivalence levels.  
6 Without an available offsetting mechanism, imputed debt  
7 obligations on electric utilities for electricity generation  
8 projects can ultimately have a major chilling effect on energy  
9 development, especially in states pursuing ambitious renewable  
10 energy goals.

11 Reducing the imputed debt obligations of electric utilities  
12 can benefit electric utility customers by maximizing the  
13 utilities' ability to negotiate low cost, fixed price renewable  
14 energy contracts. In addition, the elimination of power  
15 purchase agreement-created imputed debt obligations of a utility  
16 can lower capital costs for that utility, which helps to  
17 mitigate energy costs for consumers through lower rates.

18 The purpose of this Act is to authorize the public  
19 utilities commission to allow electric utilities operating  
20 within the State to recover through an adjustable surcharge,  
21 capacity, operations, maintenance, and other costs that are



1 binding obligations incurred from commission-approved power  
2 purchase agreements.

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- Power purchase agreements; cost recovery for  
7 electric utilities. All power purchase costs, including costs  
8 related to capacity, operations and maintenance, and other costs  
9 that are incurred by an electric utility company arising out of  
10 power purchase agreements that have been approved by the public  
11 utilities commission and are binding obligations on the electric  
12 utility company, shall be allowed to be recovered by the utility  
13 from the customer base of the electric utility company through  
14 one or more adjustable surcharges, which shall be established by  
15 the public utilities commission. Costs shall be allowed to be  
16 recovered if incurred as a result of power purchase agreements  
17 unless, after review by the public utilities commission, any  
18 costs are determined by the commission to have been incurred in  
19 bad faith, out of waste, out of an abuse of discretion, or in  
20 violation of law.

21 For the purposes of this section, "electric utility  
22 company" means a public utility as defined under section 269-1,



1 operated for the production, conveyance, transmission, delivery,  
2 or furnishing of electric power."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect on July 1, 2012.



**Report Title:**

Debt Equivalence; Imputed Debt; Utility Companies; Cost Recovery

**Description:**

Authorizes the Public Utilities Commission to allow electric utility companies to recover power purchase costs and costs arising from power purchase agreements that have been approved by the public utilities commission through an adjustable surcharge, thus mitigating associated imputed debt or debt equivalence. Effective July 1, 2012. (HB2490 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

