



GOV. MSG. NO. 1155

EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

April 23, 2012

The Honorable Shan Tsutsui, President  
and Members of the Senate  
Twenty-Sixth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

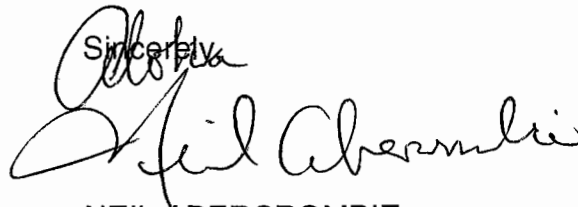
The Honorable Calvin Say, Speaker  
and Members of the House  
Twenty-Sixth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on April 23, 2012, the following bill was signed into law:

SB2752 SD1

RELATING TO ELECTRIC UTILITIES.  
**Act 055 (12)**

Sincerely,  


NEIL ABERCROMBIE  
Governor, State of Hawaii

Approved by the Governor

on APR 23 2012

THE SENATE  
TWENTY-SIXTH LEGISLATURE, 2012  
STATE OF HAWAII

ACT 055

S.B. NO. 2752  
S.D. 1

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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 requiring external financing must  
3 typically enter into one or more long-term power purchase  
4 agreements with an electric utility before investors will  
5 provide such financing. For financial rating agencies that  
6 observe and evaluate the effect of these power purchase  
7 agreements, including Standard & Poor's, such contracts create  
8 fixed debt-like financial obligations for the electric utility  
9 that represent substitutes for debt-financed capital investments  
10 in generation capacity. To properly take into account the fixed  
11 obligations in a way that reflects the credit exposure that is  
12 added by the power purchase agreements, the financial rating  
13 agencies represent, or impute, the impact of a power purchase  
14 agreement to the contracting electric utility's balance sheet in  
15 the form of a new debt obligation. This new obligation is  
16 typically referred to as imputed debt or debt equivalence.

17           Rating agencies may impute to a utility's debt level an  
18 amount up to fifty per cent or more of the existing payments on

2012-0901 SB2752 SD1 SMA.doc



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

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

19 The purpose of this Act is to authorize the public  
20 utilities commission to allow electric utilities operating  
21 within the State to recover all power purchase costs.



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

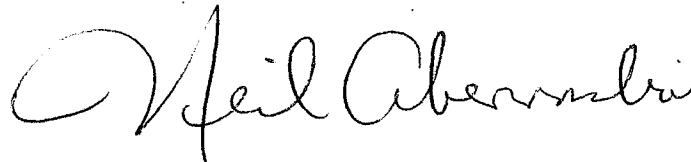
4 "§269- Power purchase agreements; cost recovery for  
5 electric utilities. All power purchase costs, including costs  
6 related to capacity, operations and maintenance, and other costs  
7 that are incurred by an electric utility company, arising out of  
8 power purchase agreements that have been approved by the public  
9 utilities commission and are binding obligations on the electric  
10 utility company, shall be allowed to be recovered by the utility  
11 from the customer base of the electric utility company through  
12 one or more adjustable surcharges, which shall be established by  
13 the public utilities commission. The costs shall be allowed to  
14 be recovered if incurred as a result of such agreements unless,  
15 after review by the public utilities commission, any such costs  
16 are determined by the commission to have been incurred in bad  
17 faith, out of waste, out of an abuse of discretion, or in  
18 violation of law. For purposes of this section, an "electric  
19 utility company" means a public utility as defined under section  
20 269-1, for the production, conveyance, transmission, delivery,  
21 or furnishing of electric power."

22 SECTION 3. New statutory material is underscored.



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

APPROVED this **23** day of **APR**, 2012

A handwritten signature in cursive script that reads "Neil Abernethy".

GOVERNOR OF THE STATE OF HAWAII