
A BILL FOR AN ACT

RELATING TO THE PUBLIC UTILITIES COMMISSION.

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

1 SECTION 1. The legislature finds that the public utilities
2 commission is undergoing a major transition due to increased
3 work complexity and program responsibilities, particularly in
4 the area of energy regulation. To ensure that the mission of
5 the public utilities commission is adequately supported, the
6 commission should be transferred from an administratively
7 attached agency of the department of budget and finance to an
8 administratively attached agency of the department of commerce
9 and consumer affairs, which can provide the commission with the
10 additional administrative support and resources it needs.

11 The legislature further finds that the chair and other
12 commissioners of the public utilities commission have not
13 received a raise since 2005. Since that time, the duties and
14 workload of the chair and commissioners have significantly
15 increased. The legislature concludes that raising the
16 compensation for the chair and the commissioners is a proper
17 acknowledgment of the commission's increased workload and the
18 additional time the chair and commissioners must invest to



1 complete their duties. An increase in compensation will also
2 ensure that the salaries of the chair and commissioners remain
3 competitive with other states' public utilities commissions.

4 The legislature additionally finds that the chair of the
5 commission is in need of an executive officer to assist with
6 managing the operations of the commission. Hiring of an
7 executive officer in charge of management and recruitment of
8 personnel, budget planning and implementation, strategic
9 planning and implementation, contract administration, and
10 implementation of administrative programs and projects will
11 enable the chair of the commission to focus on the growing
12 number and increasingly technical complexity of issues brought
13 before the commission.

14 The legislature also finds that the division of consumer
15 advocacy of the department of commerce and consumer affairs
16 protects and advances the interests of Hawaii's consumers of
17 regulated public utilities. The executive director and staff
18 members of the division of consumer advocacy attend public
19 hearings held by the public utilities commission to get input
20 from the public, which helps them to better understand the
21 consumer's perspective on utility services and rates. Because
22 this understanding is an integral part of the division's work,



1 the legislature concludes that the executive director of the
2 division of consumer advocacy, rather than the director of
3 commerce and consumer affairs, should be the consumer advocate
4 in hearings before the public utilities commission.

5 The purpose of this Act is to adequately support the
6 mission of the public utilities commission, ensure the efficient
7 operation of the public utilities commission, and ensure
8 important decisions relating to public utilities continue to be
9 made in the public interest by:

- 10 (1) Specifying that the public utilities commission is an
11 autonomous agency of the State to be transferred from
12 the department of budget and finance and assigned, for
13 administrative purposes only, to the department of
14 commerce and consumer affairs;
- 15 (2) Increasing the compensation of the chair and
16 commissioners of the public utilities commission;
- 17 (3) Clarifying the public utilities commission's authority
18 concerning standard administrative practices,
19 including operational expenditures and the hiring of
20 personnel;
- 21 (4) Enabling the chair of the public utilities commission
22 to appoint, employ, and dismiss an executive officer



1 to assist with managing the operations of the
2 commission;

3 (5) Specifying that the executive director of the division
4 of consumer advocacy, rather than the director of
5 commerce and consumer affairs, shall be the consumer
6 advocate in hearings before the public utilities
7 commission; and

8 (6) Appropriating funds to assist with the transition of
9 the public utilities commission and for the hiring of
10 an executive officer within the public utilities
11 commission.

12 SECTION 2. Section 26-8, Hawaii Revised Statutes, is
13 amended by amending subsection (d) to read as follows:

14 "(d) The [~~employees~~] employees' retirement system as
15 constituted by chapter 88 is placed within the department of
16 budget and finance for administrative purposes. The functions,
17 duties, and powers, subject to the administrative control of the
18 director of finance, and the composition of the board of
19 trustees of the employees retirement system shall be as
20 heretofore provided by law.



1 ~~[The public utilities commission is placed within the~~
2 ~~department of budget and finance for administrative purposes~~
3 ~~only.]"~~

4 SECTION 3. Section 26-9, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

6 "(c) The board of acupuncture, board of public
7 accountancy, board of barbering and cosmetology, boxing
8 commission, board of chiropractic examiners, contractors license
9 board, board of dental examiners, board of electricians and
10 plumbers, elevator mechanics licensing board, board of
11 professional engineers, architects, surveyors, and landscape
12 architects, board of massage therapy, Hawaii medical board,
13 motor vehicle industry licensing board, motor vehicle repair
14 industry board, board of naturopathic medicine, board of
15 nursing, board of examiners in optometry, pest control board,
16 board of pharmacy, board of physical therapy, board of
17 psychology, board of private detectives and guards, real estate
18 commission, board of veterinary examiners, board of speech
19 pathology and audiology, and any board, commission, program, or
20 entity created pursuant to or specified by statute in
21 furtherance of the purpose of this section including but not
22 limited to section 26H-4, or chapters 484, 514A, 514B, and 514E



1 shall be placed within the department of commerce and consumer
2 affairs for administrative purposes.

3 The public utilities commission shall be an autonomous
4 agency of the State. The public utilities commission shall be
5 assigned, for administrative purposes only, to the department of
6 commerce and consumer affairs."

7 SECTION 4. Section 269-2, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§269-2 Public utilities commission; number, appointment**
10 **of commissioners, qualifications; compensation; persons having**
11 **interest in public utilities[-]; autonomous agency; authority.**

12 (a) There shall be a public utilities commission of three
13 members, to be called commissioners, and who shall be appointed
14 in the manner prescribed in section 26-34, except as otherwise
15 provided in this section. All members shall be appointed for
16 terms of six years each, except that the terms of the members
17 first appointed shall be for two, four, and six years,
18 respectively, as designated by the governor at the time of
19 appointment. The governor shall designate a member to be
20 chairperson of the commission. Each member shall hold office
21 until the member's successor is appointed and qualified.

22 Section 26-34 shall not apply insofar as it relates to the



1 number of terms and consecutive number of years a member can
2 serve on the commission; provided that no member shall serve
3 more than twelve consecutive years.

4 In appointing commissioners, the governor shall select
5 persons who have had experience in accounting, business,
6 engineering, government, finance, law, or other similar fields.
7 The commissioners shall devote full time to their duties as
8 members of the commission and no commissioner shall hold any
9 other public office or other employment during the
10 commissioner's term of office. No person owning any stock or
11 bonds of any public utility corporation, or having any interest
12 in, or deriving any remuneration from, any public utility shall
13 be appointed a commissioner.

14 (b) Effective July 1, [~~2005,~~] 2014, the chairperson of the
15 commission shall be paid a salary set at [~~eighty-seven~~]
16 _____ per cent of the salary of the director of human
17 resources development, and each of the other commissioners shall
18 be paid a salary equal to [~~ninety-five~~] _____ per cent of
19 the chairperson's salary. The commissioners shall be exempt
20 from chapters 76 and 89 but shall be members of the state
21 employees retirement system and shall be eligible to receive the
22 benefits of any state or federal employee benefit program



1 generally applicable to officers and employees of the State,
2 including those under chapter 87A.

3 (c) The commission [is placed within the department of
4 budget and finance for administrative purposes.] shall be an
5 autonomous agency of the State and shall be assigned, for
6 administrative purposes only, to the department of commerce and
7 consumer affairs. The department of commerce and consumer
8 affairs shall not direct or exert authority over the day to day
9 operations or functions of the commission.

10 (d) Notwithstanding section 26-35(a)(5) to the contrary,
11 the commission's operational expenditures, such as the purchase
12 of supplies, equipment, furniture, dues and subscriptions,
13 travel, consultant services, and staff training under specified
14 threshold limits to be agreed upon by the chairperson and
15 executive officer of the commission and the director of commerce
16 and consumer affairs, shall be subject to the review and
17 approval of the chairperson and executive officer and subject to
18 all applicable procurement laws and procedures; provided that
19 operational expenditures above the agreed upon threshold amount
20 may be reviewed and approved by the director of commerce and
21 consumer affairs."



1 SECTION 5. Section 269-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§269-3 Employment of assistants.** (a) The chairperson of
4 the public utilities commission may appoint and employ
5 professional staff and other assistants for the public utilities
6 commission as the chairperson finds necessary for the
7 performance of the commission's functions and define their
8 powers and duties. Notwithstanding section 26-35(a)(4) to the
9 contrary and subject to applicable personnel laws, the
10 employment, appointment, applicable salary schedules, promotion,
11 transfer, demotion, discharge, and job descriptions of all
12 officers and employees of or under the jurisdiction of the
13 commission shall be determined by the chairperson and may be
14 delegated to the executive officer. The chairperson may appoint
15 and, at pleasure, dismiss a chief administrator and attorneys as
16 may be necessary, and who shall be exempt from chapter 76. The
17 chairperson may also appoint other staff with or without regard
18 to chapter 76.

19 (b) The chairperson of the commission shall appoint,
20 employ, and dismiss, at pleasure, an executive officer who shall
21 be responsible for managing the operations of the commission.
22 The responsibilities of the executive officer shall include



1 management and recruitment of personnel, budget planning and
2 implementation, strategic planning and implementation, contract
3 administration, and implementation of administrative programs
4 and projects. The executive officer shall be exempt from
5 chapter 76.

6 ~~[(b)]~~ (c) Notwithstanding section 91-13, the commission
7 may consult with its assistants appointed under authority of
8 this section in any contested case or agency hearing concerning
9 any issue of facts. Neither the commission nor any of its
10 assistants shall in such proceeding consult with any other
11 person or party except upon notice and an opportunity for all
12 parties to participate, save to the extent required for the
13 disposition of ex parte matters authorized by law."

14 SECTION 6. Section 269-5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§269-5 Annual report and register of orders.** The public
17 utilities commission shall prepare and present to the governor[
18 ~~through the director of finance,~~] in the month of January in
19 each year a report respecting its actions during the preceding
20 fiscal year. This report shall include summary information and
21 analytical, comparative, and trend data concerning major
22 regulatory issues acted upon and pending before the commission;



1 cases processed by the commission, including their dispositions;
2 utility company operations, capital improvements, and rates;
3 utility company performance in terms of efficiency and quality
4 of services rendered; financing orders issued, adjustments made
5 to the public benefits fee, and repayments or credits provided
6 to electric utility customers pursuant to part X or chapter 196,
7 part IV; a summary of power purchase agreements, including
8 pricing, in effect during the fiscal year; environmental matters
9 having a significant impact upon public utilities; actions of
10 the federal government affecting the regulation of public
11 utilities in Hawaii; long and short-range plans and objectives
12 of the commission; together with the commission's
13 recommendations respecting legislation and other matters
14 requiring executive and legislative consideration. Copies of
15 the annual reports shall be furnished by the governor to the
16 legislature. In addition, the commission shall establish and
17 maintain a register of all its orders and decisions, which shall
18 be open and readily available for public inspection, and no
19 order or decision of the commission shall take effect until it
20 is filed and recorded in this register."

21 SECTION 7. Section 269-51, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§269-51 Consumer advocate; [~~director of commerce and~~
2 ~~consumer affairs.] executive director of the division of~~
3 consumer advocacy of the department of commerce and consumer
4 affairs. The [~~director]~~ executive director of the division of
5 consumer advocacy of the department of commerce and consumer
6 affairs shall be the consumer advocate in hearings before the
7 public utilities commission. The consumer advocate shall
8 represent, protect, and advance the interests of all consumers,
9 including small businesses, of utility services. The consumer
10 advocate shall not receive any salary in addition to the salary
11 received as [~~director]~~ executive director of the division of
12 consumer advocacy of the department of commerce and consumer
13 affairs.

14 The responsibility for advocating the interests of the
15 consumer of utility services shall be separate and distinct from
16 the responsibilities of the public utilities commission and
17 those assistants employed by the commission. As consumer
18 advocate, the [~~director]~~ executive director of the division of
19 consumer advocacy of the department of commerce and consumer
20 affairs shall have full rights to participate as a party in
21 interest in all proceedings before the public utilities
22 commission."



1 SECTION 8. Section 269-52, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§269-52 Division of consumer advocacy; personnel.** There
4 shall be a division of consumer advocacy within the department
5 of commerce and consumer affairs [~~to provide administrative~~
6 ~~support to the director of commerce and consumer affairs acting~~
7 ~~in the capacity of consumer advocate. The director may employ~~
8 ~~and at pleasure dismiss an executive administrator, who shall be~~
9 ~~exempt from chapter 76, may define the executive administrator's~~
10 ~~powers and duties, and fix the executive administrator's~~
11 ~~compensation]~~. The division of consumer advocacy shall be under
12 the supervision and control of an executive director who shall
13 be known as the consumer advocate. The director of commerce and
14 consumer affairs shall appoint the executive director, who shall
15 be exempt from chapter 76, and fix the executive director's
16 compensation. The [director] executive director shall be
17 responsible for the performance of the duties imposed upon the
18 division and, as the consumer advocate, may employ engineers,
19 accountants, investigators, clerks, and stenographers as may be
20 necessary for the performance of the consumer advocate's
21 functions, in accordance with chapter 76; provided that:



1 (1) The [~~director~~] executive director may employ up to ten
2 utility analysts exempt from chapter 76; and

3 (2) Each analyst shall possess at least the minimum
4 qualifications required of comparable experts in the
5 relevant industry."

6 SECTION 9. Section 269-53, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§269-53 Legal counsel.** The [~~director~~] executive director
9 may appoint or retain, without regard to chapter 76, attorneys
10 to provide legal services for the division of consumer advocacy.
11 Nothing in this section precludes the [~~director~~] executive
12 director of the division of consumer advocacy of the department
13 of commerce and consumer affairs from requesting and securing
14 legal services from the attorney general and the department of
15 the attorney general."

16 SECTION 10. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so
18 much thereof as may be necessary for fiscal year 2014-2015 to
19 effectuate the transfer of the public utilities commission from
20 the department of budget and finance to the department of
21 commerce and consumer affairs and to enable the chairperson of
22 the public utilities commission to appoint and employ an



1 executive officer who shall be responsible for managing the
2 operations of the public utilities commission.

3 The sum appropriated shall be expended by the public
4 utilities commission for the purposes of this Act.

5 SECTION 11. (a) No later than July 1, 2015, all rights,
6 powers, functions, and duties of the department of budget and
7 finance as they relate to the public utilities commission are
8 transferred to the department of commerce and consumer affairs.

9 (b) All officers and employees whose functions are
10 transferred by this Act shall be transferred with their
11 functions and shall continue to perform their regular duties
12 upon their transfer, subject to the state personnel laws and
13 this Act.

14 No officer or employee of the State having tenure shall
15 suffer any loss of salary, seniority, prior service credit,
16 vacation, sick leave, or other employee benefit or privilege as
17 a consequence of this Act, and such officer or employee may be
18 transferred or appointed to a civil service position without the
19 necessity of examination; provided that the officer or employee
20 possesses the minimum qualifications for the position to which
21 transferred or appointed; and provided that subsequent changes



1 in status may be made pursuant to applicable civil service and
2 compensation laws.

3 An officer or employee of the State who does not have
4 tenure and who may be transferred or appointed to a civil
5 service position as a consequence of this Act shall become a
6 civil service employee without the loss of salary, seniority,
7 prior service credit, vacation, sick leave, or other employee
8 benefits or privileges and without the necessity of examination;
9 provided that such officer or employee possesses the minimum
10 qualifications for the position to which transferred or
11 appointed.

12 If an office or position held by an officer or employee
13 having tenure is abolished, the officer or employee shall not
14 thereby be separated from public employment, but shall remain in
15 the employment of the State with the same pay and classification
16 and shall be transferred to some other office or position for
17 which the officer or employee is eligible under the personnel
18 laws of the State as determined by the head of the department or
19 the governor.

20 SECTION 12. All commissioners serving on the public
21 utilities commission on the date prior to the effective date of



1 this Act shall continue as members of the public utilities
2 commission and their terms shall be unaffected by this Act.

3 SECTION 13. All appropriations, records, equipment,
4 machines, files, supplies, contracts, books, papers, documents,
5 maps, and other personal property heretofore made, used,
6 acquired, or held by the department of budget and finance
7 relating to the functions transferred to the department of
8 commerce and consumer affairs shall be transferred with the
9 functions to which they relate.

10 SECTION 14. All rules, policies, procedures, guidelines,
11 general orders, and other material adopted or developed by the
12 public utilities commission as an administratively attached
13 agency of the department of budget and finance, to implement
14 chapters 269, 269E, 271, 271G, 486H, and 486J, Hawaii Revised
15 Statutes, that are reenacted or made applicable to the public
16 utilities commission as an administratively attached agency of
17 the department of commerce and consumer affairs by this Act
18 shall remain in full force and effect until amended or repealed
19 by the public utilities commission pursuant to chapter 91,
20 Hawaii Revised Statutes. In the interim, every reference to the
21 department of budget and finance or director of finance in those
22 rules, policies, procedures, guidelines, and other material is



1 amended to refer to the department of commerce and consumer
2 affairs or director of commerce and consumer affairs, as
3 appropriate.

4 SECTION 15. All deeds, leases, contracts, loans,
5 agreements, permits, or other documents executed or entered into
6 by or on behalf of the public utilities commission transferred
7 or placed for administrative purposes within the department of
8 commerce and consumer affairs shall remain in full force and
9 effect.

10 SECTION 16. All relocation cost or expenses associated
11 with transferring the public utilities commission to the
12 department of commerce and consumer affairs shall be borne by
13 the appropriations allocation to the public utilities commission
14 or the department of commerce and consumer affairs with no
15 liabilities or liens arising from such relocation activity
16 accruing to the department of budget and finance.

17 SECTION 17. There shall be a transition period to
18 facilitate the transfer of the public utilities commission from
19 the department of budget and finance to the department of
20 commerce and consumer affairs. The year following July 1, 2014,
21 shall serve as a transition period, in which the state agencies
22 affected by this Act shall assist the chairperson in



1 implementing the transfer under this Act. Once the transfer is
2 completed, the department of commerce and consumer affairs shall
3 provide public notice that the transfer is completed in a
4 printed publication or electronic format that is accessible
5 statewide.

6 SECTION 18. The provisions of this Act are to be liberally
7 construed to effectuate its purpose.

8 SECTION 19. All Acts passed by the legislature during the
9 regular session of 2014, whether enacted before or after the
10 effective date of this Act, shall be amended to conform to this
11 Act unless such acts specifically provide that this Act is being
12 amended.

13 SECTION 20. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 21. This Act shall take effect on July 1, 2050.



Report Title:

Public Utilities Commission; Transfer of Attached Agency; Compensation; Personnel; Authority; Expenditures; Division of Consumer Advocacy; Appropriation

Description:

Specifies that the public utilities commission is an autonomous agency of the State to be transferred from the department of budget and finance and assigned, for administrative purposes only, to the department of commerce and consumer affairs. Increases the compensation of the chair and commissioners of the public utilities commission. Clarifies the public utilities commission's authority concerning standard administrative practices, including operational expenditures and the hiring of personnel. Enables the chair of the public utilities commission to appoint, employ, and dismiss an executive officer to assist with managing the operations of the commission. Specifies that the executive director of the division of consumer advocacy shall be the consumer advocate in hearings before the public utilities commission. Appropriates funds for the transfer of the public utilities commission and for the hiring of an executive officer within the public utilities commission. Effective 07/01/2050. (SD1)

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