

SB 2809

JAN 25 2010

A BILL FOR AN ACT

RELATING TO UTILITIES REGULATION.

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

1 SECTION 1. The public utilities commission and the
2 division of consumer advocacy are funded entirely by fees and
3 other revenues collected by the commission and deposited in the
4 public utilities commission special fund. This fund was
5 established by the legislature by Act 226, Session Laws of
6 Hawaii 1994, to ensure that the public utilities commission and
7 the division of consumer advocacy would have sufficient
8 resources to provide the essential services required to
9 effectively regulate Hawaii's public utilities. At that time,
10 the legislature recognized the need to provide adequate funding
11 for the regulatory agencies, and it found that, in addition to
12 the ordinary processing of regulatory cases, adequate funding
13 would allow agencies to cut regulatory delays and handle the
14 many challenges of the changing environment in public utilities.

15 The legislature finds that adequate staffing of the public
16 utilities commission and the division of consumer advocacy is
17 essential for these agencies to effectively perform their
18 missions. The legislature acknowledged this in Act 226, Session



1 Laws of Hawaii 1994, when it established the public utilities
2 special fund, in Act 143, Session Laws of Hawaii 2006, when it
3 required the public utilities commission and the division of
4 consumer advocacy to prepare reorganization plans, and again in
5 Act 177 and Act 183, Session Laws of Hawaii 2007, when it passed
6 legislation to reorganize the two agencies in order to
7 revitalize Hawaii's utility regulatory program. The
8 reorganizations approved for these agencies by Act 177 and Act
9 183 provided for:

- 10 (1) Increased staff levels;
- 11 (2) Agency re-structuring and re-description of several
12 positions to modernize the operation of the agencies;
13 and
- 14 (3) Necessary relocation of the commission offices.

15 In fiscal year 2009-2010, however, the budget for the
16 public utilities commission was reduced, taking away nine
17 positions, leaving two additional positions unfunded, and
18 leaving the previously-approved relocation of the public
19 utilities commission offices unfunded. The loss of all of these
20 positions negatively impacts the overall reorganization plan and
21 hobbles the commission's effectiveness.



1 Similarly, in fiscal year 2009-2010, the budget for the
2 division of consumer advocacy was reduced such that eight
3 positions that were in the process of being re-described as part
4 of the reorganization were taken away, and the new positions
5 provided for in the reorganization of the division could not be
6 filled. This reduction in staff and budget severely impairs the
7 division's ability to effectively meet its duties and
8 objectives. Coupled with the additional effects of furloughs
9 and other associated restrictions and reductions, there has been
10 an approximately 9.5 per cent reduction in employee work hours.
11 At its present level of staffing and approved budget, the
12 division faces difficulty, and it has delayed, as much as
13 possible, participating in all of the matters filed with the
14 commission. In addition, processing times for applications,
15 licenses, registrations, investigations and case-handling have
16 all increased, except where established by law. For example, to
17 date in fiscal year 2009-2010, the division has not had
18 sufficient staff or resources to participate in any applications
19 related to certification of new telecommunications services
20 providers, and it has had to request more deadline extensions in
21 matters of public utility regulation than in the past.



1 Currently, there are fifty-one funded permanent positions
2 in the public utilities commission. Thirty-seven of these
3 positions are filled, and fourteen positions are unfilled. Of
4 these unfilled positions, eleven are new positions created by
5 the reorganization approved by Act 177, Session Laws of Hawaii
6 2007. The commission is actively trying to obtain necessary
7 approvals and find qualified applicants for the unfilled
8 positions.

9 Currently, there are fifteen funded positions in the
10 division of consumer advocacy. Eleven of these positions are
11 filled and four positions are unfilled. The division is
12 actively trying to obtain the necessary approvals and find
13 qualified applicants for the remaining vacancies.

14 The legislature continues to believe that the
15 reorganizations of the public utilities commission and the
16 division of consumer advocacy provided by Act 177 and Act 183,
17 Session Laws of Hawaii 2007, are essential for providing
18 sufficient regulation of Hawaii's public utilities; controlling
19 utility costs for Hawaii's people, businesses, and governmental
20 agencies; and successfully implementing meaningful energy policy
21 reform in Hawaii. It is especially important for these agencies
22 to have sufficient resources to effectively and efficiently



1 oversee Hawaii's transition from its over-reliance on the use of
2 imported fossil fuels to increased use of renewable energy and
3 energy efficiency. The public utilities commission and the
4 division of consumer advocacy will be responsible to oversee the
5 investment of several billion dollars in public utility-related
6 capital investments as part of this transition in the next
7 several years.

8 The legislature acknowledges the budgetary difficulties
9 faced by the State and its agencies, but it finds that the
10 failure to adequately fund the staffing and reorganization of
11 the public utilities commission and the division of consumer
12 advocacy will have consequences that will extend much further
13 than the current economic recession. Indeed, it is recognized
14 that a vital and effective public utility regulatory program is
15 essential to Hawaii's economic recovery. The public utilities
16 commission and the division of consumer advocacy regulate
17 between three to four billion dollars of electric and
18 telecommunications bills annually that are paid by Hawaii's
19 people, businesses, and government agencies. Analyses performed
20 by the Hawaii Energy Policy Forum indicate that the increased
21 effectiveness of the public utilities commission and the
22 division of consumer advocacy which would result from the



1 reorganizations approved in Act 177 and Act 183, Session Laws of
2 Hawaii 2007, would, in several years, reduce the annual utility
3 expenses in the State's budget by several times as much as the
4 annual cost of fully funding the reorganization of these
5 agencies. The savings that would result from effective
6 regulation and efficient allocation of public utility
7 investments over the next several years would save Hawaii's
8 economy over one hundred million dollars annually.

9 The legislature finds that the public utilities commission
10 special fund contains sufficient moneys to adequately fund the
11 public utilities commission and the division of consumer
12 advocacy including all provisions of the reorganization approved
13 in Act 177 and Act 183, Session Laws of Hawaii 2007.

14 The purpose of this Act is to authorize sufficient funding
15 for the operation and staffing of the public utilities
16 commission and the division of consumer advocacy in order to
17 accomplish the objectives of those agencies and fulfill the
18 intent of their reorganization that was begun by Act 177 and Act
19 183, Session Laws of Hawaii 2007.

20 SECTION 2. There is appropriated out of the public
21 utilities commission special fund the sum of or so
22 much thereof as may be necessary for fiscal year 2010-2011 for



1 the operations of the public utilities commission, including
2 funding all positions included in the reorganization approved by
3 Act 177, Session Laws of Hawaii 2007, including the reinstating
4 and funding of the nine positions removed by Act 162, Session
5 Laws of Hawaii 2009, and funding all expenses related to the
6 relocation of the commission's offices as approved in Act 177,
7 Session Laws of Hawaii 2007.

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

10 SECTION 3. (a) Upon request, other state and county
11 agencies shall assist the public utilities commission in
12 carrying out the provisions of this Act.

13 (b) The department of human resources development shall
14 work cooperatively with the public utilities commission in
15 establishing and re-describing job descriptions in a timely
16 manner as is deemed necessary by the public utilities
17 commission.

18 SECTION 4. There is appropriated out of the public
19 utilities commission special fund the sum of \$ or so
20 much thereof as may be necessary for fiscal year 2010-2011 for
21 the operations of the division of consumer advocacy, including
22 the funding of all positions included in the reorganization



1 approved by Act 183, Session Laws of Hawaii 2007, including the
2 reinstatement and funding of the positions removed in fiscal
3 year 2009-2010 and the necessary training for new and existing
4 division personnel.

5 The sum appropriated shall be expended by the department of
6 commerce and consumer affairs for the purposes of this Act.

7 SECTION 5. This Act shall take effect on July 1, 2010.

8

INTRODUCED BY: Rosely H Baker

Amil Y Lee
Noma Sakuma

Will Eyo



Report Title:

Appropriations; Public Utilities Commission; Division of
Consumer Advocacy

Description:

Appropriates moneys for the reorganization of the PUC and the
division of consumer advocacy.

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





February 1, 2010

**TESTIMONY BEFORE THE SENATE COMMITTEE ON
COMMERCE & CONSUMER PROTECTION
ON SB 2809 RELATING TO UTILITIES REGULATION**

Thank you Chair Baker and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

Hawaii Transportation Association supports this bill.

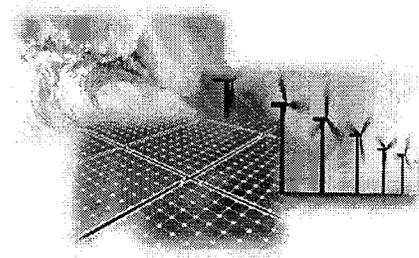
The Public Utilities Commission is charged with the regulation of various industries who pay a fee to support the regulatory activities.

Although the collections are adequate to maintain the regulatory function, the PUC is limited as to the amount they may expend. This hamstrings the Commission.

The worse part of it is the "excess" lapses into the General Fund. The PUC fee is statutorily payed by certain industries for a service. That money belongs to the PUC and/or those industries.

Any excess should be remitted back, or credited, to the industries in some manner, or at the very least, NOT handed off to the General Fund.

Thank you.



SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

February 2, 2010, 9:00 A.M.

Room 229

(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF SB 2809

Chair Baker and members of the Committee:

The Blue Planet Foundation strongly supports Senate Bill 2809, a measure to ensure proper funding for the Public Utilities Commission (PUC) to complete their essential work, including funding to implement the reorganization approved by Act 177 (2007), including the reinstating and funding of the nine positions removed by Act 162 (2009).

This measure is critically important to Hawaii's clean energy future. The PUC is charged with developing and enforcing policies that govern the lifeblood of Hawaii's economy: electricity. They need to be properly funded to successfully navigate the multi-billion dollar transition to a clean energy future. The full amount of revenue generated in the special fund should be dedicated to the public utilities commission.

<u>Funds</u>	<u>FY 2008</u>	<u>FY 2009</u>
PUC special fund revenue	\$ 17,443,000	\$ 17,617,000
PUC budget	\$ 7,719,000	\$ 8,279,000
Transfers to general fund	\$ 9,724,000	\$ 9,339,000

Currently, the PUC is funded through the PUC special fund which collects funding from various sources, most significantly an annual fee of one-half of one per cent of the gross income of the public utility's previous year's business. Over half of the revenue in this special fund—which receives about \$17.5 million annually—is diverted to the state's general fund, however. For fiscal year 2009, of the \$17.6 million in revenue generated, \$8.3 million was expended by the PUC while \$9.3 was diverted to the state general fund. The PUC is currently deliberating

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dockets that will fundamentally reshape Hawaii's electric utility sector. Smart grid, utility decoupling, feed-in tariffs for clean energy, integrated resource planning—these dockets require thorough deliberation, research, and expert input. The PUC must have the talent and resources to adequately investigate and develop the right policies for Hawaii's 21st century electricity industry. The total funding available to them through their revenues should be available for their work.

The public utilities commission needs funding to navigate the multi-billion dollar transition to Hawaii's clean energy economy. Please forward SB 2809.

Thank you for the opportunity to testify.

TESTIMONY BEFORE THE
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Tuesday, February 2, 2010
9:00 a.m.
Conference Room 229, State Capitol

S.B. NO. 2809
RELATING TO UTILITIES REGULATION

By Kevin Katsura
Associate General Counsel, Legal Department
Hawaiian Electric Company, Inc.

Chair Baker, Vice-Chair Ige, and Members of the Committee:

My name is Kevin Katsura providing written testimony in support of S.B. No. 2809 on behalf of Hawaiian Electric Company, Inc. and our subsidiary companies, Hawaii Electric Light Company, Inc. and Maui Electric Company, Ltd. (collectively, the Hawaiian Electric Companies).

The Hawaiian Electric Companies strongly support this bill, which authorizes funding for the operation and staffing of the Public Utilities Commission (PUC) and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (Consumer Advocate).

While we are not qualified to address the amount of funding required to fund all positions included in the reorganization approved by Act 177, Session Laws of Hawaii 2007, we can endorse the need for additional resources within the PUC and the Consumer Advocate.

From the Hawaiian Electric Companies' perspective, the workload of the PUC has never been greater, and our look at the future suggests the situation which presently exists is not a temporary one. The PUC's work in the electric utility sector includes general rate cases, project applications, and dockets initiated by the Commission in response to legislative action or external events. Each of these requires extensive review, and timely action beneficial to all involved. The Consumer Advocate is automatically a party to every docket involving the electric utility.

In addition, the PUC and the Consumer Advocate bear statutory responsibilities in the regulation of telecommunications, water and wastewater utilities, and water and motor carriers.

For these reasons, we support S.B. No. 2809 and request its passage. Thank you for the opportunity to testify.



COLLEGE OF SOCIAL SCIENCES
HAWAII ENERGY POLICY FORUM
UNIVERSITY OF HAWAII AT MĀNOA

Hawai'i Energy Policy Forum

Ms. Stephanie Ackerman, The Gas Co.
Mr. Robbie Alm, HECO
Ms. Amy Asselbayer, Office of US Rep. Neil Abercrombie
Ms. Madeleine Austin, World Business Academy
Mr. Warren Bollmeier, Hawai'i Renewable Energy Alliance
Mr. Carlito Caliboso, PUC (Observer)
Mr. Albert Chee, Chevron
Ms. Elizabeth Cole, The Kohala Center
Mr. Kyle Datta, New Energy Partners
Ms. Laura Dierenfield, People's Advocacy for Trails Hawai'i (PATH)
Mr. Mark Duda, HI Solar Energy Asst.
Sen. Kalani English, Hawai'i State Senate
Mr. Mitch Ewan, UH HNEI
Mr. Carl Freedman, Haiku Design & Analysis
Sen. Mike Gabbard, Hawai'i State Senate
Mr. Mark Glick, OHA
Dr. Michael Hamnett, RCUH
Dr. Robert Harris, Sierra Club
Mr. William Kaneko, Hawai'i Institute for Public Affairs
Mr. Darren Kimura, Energy Industries Holdings
Ms. Kelly King, Sustainable Biodiesel Alliance
Mr. Mike Kitamura, Office of US Senator Daniel K. Akaka
Mr. Kal Kobayashi & Victor Reyes, Maui County Energy Office
Mr. Laurence Lau, State of Hawai'i DOH
Mr. Allyn Lee, C&C of Honolulu Dept. of Design & Construction
Dr. Stephen Meder, UH Center of Smart Building & Community Design
Dr. Sharon Miyashiro, UH College of Social Sciences Public Policy Center
Rep. Hermina Morita, Hawai'i State House of Representatives
Mr. Dean Nishina, Div of Consumer Advocacy
Mr. Tim O'Connell, USDA-Rural Development
Ms. Melissa Pavlicek, Hawai'i Public Policy Advocates
Mr. Ted Peck, State of Hawai'i DBEDT Strategic Industries Division
Mr. Randy Perreira, Hawai'i State AFL-CIO
Dr. Rick Rocheleau, UH HNEI
Mr. William Rolston, Hawai'i County Dept. of Research & Development
Mr. Peter Rosegg, HECO
Mr. Steven Rymsha, KIUC
Mr. Riley Saito, PowerLight Corporation
Mr. Glenn Sato, Kaua'i County Office of Economic Development
Mr. Bill Short, BIA of Hawai'i
Ms. Joelle Simonpietri, Simonpietri Enterprises LLC
Mr. H. Ray Starling, Hawai'i Energy Group LLC
Mr. Lance Tanaka, Tesoro Hawai'i Corp.
Dr. Don Thomas, UH Center for the Study of Active Volcanoes
Ms. Maria Tome, State of Hawai'i DBEDT Energy Office
Mr. Murray Towill, Hawai'i Hotel Association
Mr. Joshua Wisch, Office US Representative Mazie Hirono
Mr. Alan Yamamoto, Office US Senator Daniel Inouye

Testimony of Carl Freedman, Chair
Regulatory Reform Working Group
Hawai'i Energy Policy Forum

Senate Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

Tuesday, February 2, 2010
9:00 a.m. Conference Room 229

IN SUPPORT OF SB 2809 – Relating to Utilities Regulation

I am Carl Freedman, Chair of the Regulatory Reform Working Group of the Hawaii Energy Policy Forum (“Forum”). The Forum is comprised of 47 representatives from Hawaii’s electric utilities, oil and natural gas suppliers, environmental and community groups, renewable energy industry, and federal, state and local government, including representatives from the neighbor islands. We have been meeting since 2002 and have adopted a common vision and mission, and a comprehensive “10 Point Action Plan,” which serves as a framework and guide for meeting our preferred energy vision and goals.

SB 2809 would implement the reorganizations of the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) that were approved by the Legislature in 2007 in Acts 177 and 183. The Forum wholeheartedly agrees with 2007 Legislature’s findings that the reorganizations of these agencies “are essential for providing sufficient regulation of Hawaii's public utilities; controlling utility costs for Hawaii's people, businesses, and governmental agencies; and successfully implementing meaningful energy policy reform in Hawaii.”

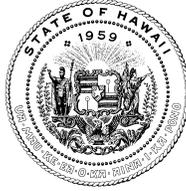
SB2809 is a cost saving measure. It would reduce the annual utility expenditures of State government by several times as much as the annual cost of fully funding the reorganization of the PUC and DCA. These agencies regulate over \$3 billion of annual telecommunications and electricity utility bills paid by Hawaii’s people, businesses and government agencies. The Forum estimates that fully funding the reorganizations would ultimately result in savings of at least \$100 million annually due to increased regulatory efficiency and consumer protection, bolstered utility industry financial health and prudent allocation of utility investments and expenditures. Funding for the PUC and DCA, including funding of the reorganizations reestablished by this bill, derives from revenues collected by the PUC from users of utility services, not from state general funds.

Sufficient utility regulation and consumer protection are especially essential in the next several years as Hawaii prepares to invest billions of dollars in new utility and private sector infrastructure associated with a transition from over-dependence on fossil fuels to increased reliance on efficiency and renewable energy resources.

Based on the foregoing, the Forum supports SB 2809 and respectfully urges passage of the bill.

Thank you for the opportunity to testify.

This testimony reflects the position of the Forum as a whole and not necessarily of the individual Forum members or their companies or organizations.



LINDA LINGLE
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TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2010

TUESDAY, FEBRUARY 2, 2010
9:00 A.M.

TESTIMONY OF DEAN NISHINA, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS, TO THE HONORABLE SENATOR ROSALYN H. BAKER, CHAIR, AND
MEMBERS OF THE COMMITTEE

SENATE BILL NO. 2809 - RELATING TO UTILITIES REGULATION

DESCRIPTION:

This measure proposes to authorize sufficient funding for the operation and staffing of the Public Utilities Commission ("Commission") and the Division of Consumer Advocacy ("Consumer Advocate") in order to facilitate the agencies' ability to meet their expected objectives and to fulfill the intent of the reorganizations that were begun with Act 177 and Act 183 from the 2007 legislative session. In addition, the measure proposes to require that applicable state and/or county agencies should assist in carrying out the proposed measure.

POSITION:

The Consumer Advocate supports this measure.

COMMENTS:

This measure proposes to facilitate the efforts to ensure that the Commission and the Consumer Advocate are sufficiently funded and staffed to handle the normal ongoing workload that is associated with regulating various public utility industries, such as the electric, natural gas, telecommunications, water, and wastewater industries, as

well as the regulation of transportation companies, such as those engaged in intra-island shipping. It should be noted that the normal, ongoing workload generally consists of rate change requests, capital improvement project applications, and other matters. This normal, ongoing workload has been increased recently due to the Clean Energy Initiatives that the State is actively pursuing. These initiatives are resulting in dockets that are novel, complex and resource consuming.

In order to manage the workload, the Consumer Advocate has been considering and implementing various measures to meet the ongoing workload and the associated procedural deadlines that are established. One of these measures is evaluating the dockets to determine the general type of or specific applications in which the Consumer Advocate will not participate, such as requests filed by companies seeking certification of authority to provide telecommunications services in Hawaii and certain types of applications related to financing. The Consumer Advocate has also implemented other measures, including reducing the scope of analysis in order to minimize the time that might be required by available staff or consultants to complete the review of the application within the procedural deadlines.

Historically, the Commission and the Consumer Advocate have had difficulties finding and retaining individuals to fill available vacancies. These difficulties are more pronounced for the Consumer Advocate because of the expectations of analysts to provide written and oral testimonies before the Commission under the applicable deadlines. The Consumer Advocate had already implemented various measures meant to be short-term in nature in order to address the staffing deficiencies experienced, but with the additional budget cuts and elimination of vacant positions, the already difficult situation was made even more difficult, which required even more extreme measures. Such measures will adversely affect the effectiveness of the Consumer Advocate on both short- and long-term bases, but are necessary to meet the ongoing workload and procedural deadlines that are associated with the various dockets. The reorganizations that were the subject of Act 177 and 183 were envisioned to remove some of those difficulties.

Thus, the Consumer Advocate supports the proposed measure as the Consumer Advocate contends that both the Consumer Advocate and the Commission should be able to access sufficient resources to ensure efficient operations to handle the normal ongoing workload. While the Consumer Advocate understands the current situation with the State's budget crisis, the Consumer Advocate contends that if the Commission and the Consumer Advocate are not able to adequately fulfill their existing duties, this will have a much more adverse impact on consumers and businesses than the incremental resources needed by the agencies. The need for adequately staffed and funded operations of the two agencies is also highlighted by the ongoing efforts to implement measures related to the Clean Energy Initiative, since if the agencies are not able to meaningfully participate or timely meet applicable responsibilities, this will

S.B. No. 2809
Senate Committee on Commerce and Consumer Protection
Tuesday, February 2, 2010, 9:00 a.m.
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adversely affect the State's ability to migrate towards weaning itself from its dependence on imported fossil fuels.

Thank you for this opportunity to testify.