



GOV. MSG. NO. **588**

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

May 21, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 21, 2010, the following bill was signed into law:

SB2809 SD2 HD1 CD1

A BILL FOR AN ACT
RELATING TO UTILITIES REGULATION.
ACT 130 (10)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

Approved by the Governor
on MAY 21 2010

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

ACT 130

S.B. NO. 2809
S.D. 2
H.D. 1
C.D. 1

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

16 The legislature finds that adequate staffing of the public
17 utilities commission and the division of consumer advocacy is
18 essential for these agencies to effectively perform their



missions. The legislature acknowledged this in Act 226, Session Laws of Hawaii 1994, when it established the public utilities commission special fund; in Act 143, Session Laws of Hawaii 2006, when it required the public utilities commission and the division of consumer advocacy to prepare reorganization plans; and again in Act 177 and Act 183, Session Laws of Hawaii 2007, when it passed legislation to reorganize the two agencies to revitalize Hawaii's utility regulatory program. The reorganizations approved for these agencies by Act 177 and Act 183 provided for:

- (1) Increased staff levels;
- (2) Agency restructuring and amendments to the descriptions of several positions to modernize the operation of the agencies; and
- (3) Necessary relocation of the commission offices.

In fiscal year 2009-2010, the budget for the public utilities commission was reduced, taking away nine positions, leaving two additional positions unfunded, and leaving the previously-approved relocation of the public utilities commission offices unfunded. The lost positions negatively impact the overall reorganization plan and impede the commission's effectiveness.



1 Similarly, in fiscal year 2009-2010, the budget for the
2 department of commerce and consumer affairs' division of
3 consumer advocacy was reduced with the result that eight
4 positions were taken away and new positions provided for in the
5 reorganization of the division could not be filled. The
6 legislature finds that this reduction in staff and budget
7 severely impairs the division's ability to effectively meet its
8 duties and objectives. Coupled with the additional effects of
9 furloughs and other associated restrictions and reductions,
10 there has been an approximately 9.5 per cent reduction in the
11 division's employee work hours. At its present level of
12 staffing and approved budget, the division faces difficulties
13 that have required it to delay, as much as possible,
14 participating in all of the matters filed with the commission.
15 In addition, processing times for applications, licenses,
16 registrations, investigations, and case-handling without a
17 statutory time limit have all increased. To date in fiscal year
18 2009-2010, the division has not had sufficient staff or
19 resources to participate in any applications related to
20 certification of new telecommunications services providers and
21 it has had to request more deadline extensions in matters of
22 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 reorganization 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, is essential to sufficiently
18 regulate Hawaii's public utilities; control utility costs for
19 Hawaii's people, businesses, and government agencies; and
20 successfully implement meaningful energy policy reform in
21 Hawaii. It is especially important for these agencies to have
22 sufficient resources to effectively and efficiently oversee



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

7 The legislature acknowledges the budgetary difficulties
8 faced by the State and its agencies, but finds that failure to
9 adequately fund the staffing and reorganization of the public
10 utilities commission and the division of consumer advocacy will
11 have consequences beyond the current economic recession.

12 Accordingly, the legislature finds that a vital and effective
13 public utility regulatory program is essential to Hawaii's
14 economic recovery. The public utilities commission regulates,
15 and the division of consumer advocacy advocates for consumers
16 with respect to, electric and telecommunications services worth
17 between \$3,000,000,000 and \$4,000,000,000 annually. Analyses
18 performed by the Hawaii Energy Policy Forum indicate that the
19 increased effectiveness of the public utilities commission and
20 the division of consumer advocacy that would result from the
21 reorganization approved in Act 177 and Act 183, Session Laws of
22 Hawaii 2007, would reduce the annual utility expenses in the



1 State's budget by more than the annual cost of fully funding the
2 reorganization. The savings that would result from effective
3 regulation and efficient allocation of public utility
4 investments over the next several years would save Hawaii's
5 economy over \$100,000,000 annually.

6 The legislature finds that the public utilities commission
7 special fund contains sufficient moneys to adequately fund the
8 public utilities commission and the division of consumer
9 advocacy including all aspects of the reorganization required by
10 Act 177 and Act 183, Session Laws of Hawaii 2007.

11 The purpose of this Act is to authorize sufficient funding
12 for the operation and staffing of the public utilities
13 commission and the department of commerce and consumer affairs'
14 division of consumer advocacy to accomplish the objectives of
15 those agencies and to complete the reorganization that was begun
16 by Act 177 and Act 183, Session Laws of Hawaii 2007.

17 SECTION 2. There is appropriated out of the public
18 utilities commission special fund the sum of \$1,704,000 or so
19 much thereof as may be necessary for fiscal year 2010-2011 for
20 the operations of the public utilities commission, including
21 funding all positions included in the reorganization approved by
22 Act 177, Session Laws of Hawaii 2007; including the reinstating



1 and funding of the nine positions removed by Act 162, Session
2 Laws of Hawaii 2009.

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

5 SECTION 3. (a) Other state and county agencies shall
6 assist:

- 7 (1) The public utilities commission, upon its request; and
8 (2) The department of commerce and consumer affairs'
9 division of consumer advocacy, upon its request,
10 in carrying out the provisions of this Act.

11 (b) The department of human resources development shall
12 work cooperatively with:

- 13 (1) The public utilities commission, as the commission
14 deems necessary; and
15 (2) The department of commerce and consumer affairs'
16 division of consumer advocacy, as the division deems
17 necessary,

18 in establishing and amending job descriptions in a timely
19 manner.

20 SECTION 4. There is appropriated out of the compliance
21 resolution fund the sum of \$634,000 or so much thereof as may be
22 necessary for fiscal year 2010-2011 for the operations of the



1 department of commerce and consumer affairs' division of
2 consumer advocacy, including funding all positions included in
3 the reorganization approved by Act 183, Session Laws of Hawaii
4 2007; reinstating and funding the positions removed in fiscal
5 year 2009-2010; and necessary training for new and existing
6 division personnel.

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

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

10

APPROVED this 21 day of MAY, 2010



GOVERNOR OF THE STATE OF HAWAII