

JAN 20 2017

---

---

# A BILL FOR AN ACT

RELATING TO THE HAWAII RATEPAYER PROTECTION ACT.

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

1           SECTION 1. In 2014, the public utilities commission issued  
2 a landmark set of "Inclinations on the Future of Hawaii's  
3 Electric Utilities: Aligning the Utility Business Model with  
4 Customer Interests and Public Policy Goals". Those Inclinations  
5 provided "perspectives on the vision, business strategies and  
6 regulatory policy changes required to align the HECO Companies'  
7 business model with customers' interests and the state's public  
8 policy goals".

9           The legislature finds that improving the alignment of  
10 utility customer and company interests is critical to ensuring  
11 that Hawaii's residents and businesses do not suffer economic  
12 and environmental harm from the State's energy systems. At the  
13 same time, this re-alignment is critical to ensure the ongoing  
14 viability of the State's regulated electric utilities, as they  
15 face increasing need to rapidly adapt business models and  
16 strategies to enable new innovations and customer choices.



1           Furthermore, the legislature finds that this re-alignment  
2 has entered a period of extraordinary urgency. The commission's  
3 Inclinations noted that the State's utilities must rapidly  
4 create a twenty-first century generation system, modernize  
5 transmission and distribution grids, and implement new rate  
6 structures in concert with changes to outdated regulatory  
7 compact. The legislature agrees with the public utilities  
8 commission that "electric utilities need to move with urgency to  
9 modernize the generation system on each island grid as delays  
10 are lost savings opportunities".

11           To that end, some of the State's utilities have recently  
12 proposed modernization plans. Those plans would ultimately  
13 result in a dramatic reduction in fossil fuel consumption, as  
14 those fuels are replaced by renewable energy resources.  
15 However, this shift would be accompanied by an equally dramatic  
16 shift in how utility revenues are expended. As fewer funds are  
17 spent to purchase fossil fuels, those funds will be re-directed  
18 to capital projects. This is a benefit to residents and  
19 businesses, insofar as fixed-cost renewable energy projects can  
20 reduce the risk of consumers facing volatile fossil fuel costs.



1 Renewable energy resources have also entered a new paradigm  
2 where they can lower energy costs in comparison to fossil fuels.

3       However, the existing regulatory compact rewards utilities  
4 for increasing capital expenditures, irrespective of utility  
5 performance. This same business and revenue model has been in  
6 place for over a century. The Wall Street Journal explained  
7 that "the more [utilities] spend, the more profits they earn",  
8 and called this "a regulatory system that turns corporate  
9 accounting on its head".

10       The legislature finds that it is justified to be concerned  
11 that the existing compact therefore misaligns the interests of  
12 customers and utilities, because it may result in a bias toward  
13 expending utility capital on utility-owned or funded projects.  
14 These projects may displace more efficient or cost-effective  
15 options, such as distributed energy resources owned by customers  
16 or projects implemented by independent third parties.

17       With extraordinary urgency, the legislature must ensure  
18 that the regulatory compact will change to promote decisions and  
19 strategies that will maximize public benefit, reduce ratepayer  
20 risk, and meet Hawaii's energy goals.



**S.B. NO. 366**

1           The legislature also finds that the responsibility of  
2 aligning investor-owned utility regulatory policies with  
3 customers' interests and the State's public policy goals is not  
4 limited to the public utilities commission, but more broadly  
5 rests with the State and county governments that represent the  
6 public interest. The regulatory framework under which utilities  
7 operate and the scope of regulation by the public utilities  
8 commission are established by the legislature, which holds  
9 exclusive authority to issue, amend, or revoke franchise rights  
10 which permit utilities to operate in the State.

11           The purpose of this Act is to protect consumers by urgently  
12 and proactively ensuring that the existing utility and  
13 regulatory business model will be updated for the twenty-first  
14 century by requiring that electric utility revenues be directly  
15 tied to performance incentive and penalty mechanisms established  
16 by the public utilities commission.

17           SECTION 2. This Act shall be known as the Hawaii Ratepayer  
18 Protection Act.

19           SECTION 3. Chapter 269, Hawaii Revised Statutes, is  
20 amended by adding a new section to part I to be appropriately  
21 designated and to read as follows:



1        "§269- Performance incentive and penalty mechanisms. On  
2 or before January 1, 2020, the public utilities commission shall  
3 establish performance incentive and penalty mechanisms that  
4 directly tie electric utility revenues to a utility's  
5 achievement on performance metrics. Once established, such  
6 performance incentives and penalties, as may be amended by the  
7 public utilities commission from time to time, shall apply to  
8 all regulation of utility rates under section 269-16.

9        In developing performance incentive and penalty mechanisms,  
10 the public utilities commission's review of electric utility  
11 performance shall consider, but not be limited to, the  
12 following:

- 13        (1) The economic incentives and cost-recovery described in  
14        section 269-6(d);
- 15        (2) Exceeding the State's renewable portfolio standards as  
16        described in section 269-92;
- 17        (3) Electric rate affordability and ratepayer volatility  
18        risk;
- 19        (4) Electric service reliability;
- 20        (5) Customer satisfaction, including customer options for  
21        managing electricity costs;



# S.B. NO. 366

- 1        (6) Rapid integration of renewable energy sources,  
2                including customer-sited resources; and  
3        (7) Timely execution of competitive procurement and other  
4                business processes."

5        SECTION 4. New statutory material is underscored.

6        SECTION 5. This Act shall take effect on July 1, 2017.

7

INTRODUCED BY: *Erzanne G. George*

*Rosaly H. Beck*  
*~~Don~~ A.C. Kraljic*  
*Allen G. H.*

*[Signature]*  
*Michelle N. Gueloni*



# S.B. NO. 366

**Report Title:**

Ratepayer Protection Act; Electric Utilities; Public Utilities Commission

**Description:**

Requires, on or before 1/1/2020, the public utilities commission to establish performance incentive and penalty mechanisms that directly tie electric utility revenues to the utility's achievement on performance metrics.

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

