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# A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1           SECTION 1. The legislature finds that accelerating the  
2 development of renewable energy to reduce greenhouse gases is a  
3 high priority. The legislature has enacted numerous Acts to  
4 achieve this objective, including:

5           (1) Act 97, Session Laws of Hawaii 2015, which established  
6 a renewable energy portfolio standards' target of one  
7 hundred per cent renewable electric energy by  
8 December 31, 2045;

9           (2) Act 15, Session Laws of Hawaii 2018, which established  
10 a statewide zero emissions clean economy target to  
11 sequester throughout the State more atmospheric carbon  
12 and greenhouse gases than emitted, as quickly as  
13 practicable but no later than 2045; and

14           (3) Act 238, Session Laws of Hawaii 2022, which  
15 established a statewide target that includes a  
16 greenhouse gas emissions limit of at least fifty per



1 cent below 2005 greenhouse gas emission levels no  
2 later than 2030.

3 The legislature further finds that the timely completion of  
4 grid-connected renewable energy projects is also a high  
5 priority, as it will help the State achieve the targets and  
6 limits established through prior legislation. On November 13,  
7 2020, the public utilities commission issued a letter to the  
8 parties in docket numbers 2015-0389 (Community Based Renewable  
9 Energy), 2017-0352 (Hawaiian Electric Renewable Requests for  
10 Proposals), and 2018-0165 (Integrated Grid Planning), stating  
11 that it "is markedly concerned that Hawaiian Electric  
12 [Company]'s interconnection processes and policies are  
13 increasing development costs and extending renewable project  
14 timelines".

15 On December 23, 2020, under docket number 2018-0088  
16 (Performance-Based Regulation), the public utilities commission  
17 issued order number 37507, indicating, in part, that it was  
18 concerned about interconnection delays and will implement a  
19 performance incentive mechanism to encourage Hawaiian Electric  
20 Company to accelerate the interconnection process. Order number  
21 37507 also stated that "the scheduled retirement of the AES



1 Power Plant in 2022, as well as [Hawaiian Electric Company,  
2 Inc.; Hawaii Electric Light Company, Inc.; and Maui Electric  
3 Company, Limited's] proposal to delay interconnecting several  
4 renewable energy and storage projects recently approved by the  
5 commission, underscores the need for expeditiously securing  
6 alternative sources of grid services to ensure that system needs  
7 are met".

8 The legislature notes that during phase 1 and phase 2 of  
9 the electric utility's procurement under docket no. 2017-0352,  
10 projects have been delayed or terminated, due in part to costs  
11 and delays of interconnection. On February 11, 2021, the public  
12 utilities commission opened docket number 2021-0024 to review  
13 Hawaiian Electric Company's interconnection process and  
14 transition plans for retirement of fossil fuel plants.

15 In 2022, the public utilities commission testified that it  
16 had set up a tracker account to quantify and monitor the cost of  
17 project delays. As of the monthly update submitted by the  
18 Hawaiian Electric Company on January 21, 2022, the tracked cost  
19 totaled over \$10,000,000 across several projects. The public  
20 utilities commission also testified that it issued a request for  
21 information to solicit input from qualified entities to serve



1 under contract as a Hawaii electric reliability administrator.  
2 On September 9, 2022, instead of procuring a Hawaii electric  
3 reliability administrator, the public utilities commission  
4 awarded a procurement contract that hired an independent  
5 engineer to assist the commission in overseeing the technical  
6 aspects of the upcoming phase 3 procurement processes, reviewing  
7 interconnection requirements that had already been established  
8 by the Hawaiian Electric Company and associated costs, resolving  
9 technical disputes related to interconnection of resources,  
10 assisting in the implementation of interconnection-related  
11 performance incentive mechanisms, and serving a general advisory  
12 role to the commission on issues related to Hawaiian Electric  
13 Company's interconnection process. These duties only cover a  
14 subset of the duties of a Hawaii electric reliability  
15 administrator, pursuant to part IX of chapter 269, Hawaii  
16 Revised Statutes, and therefore will not result in commission-  
17 established reliability standards for interconnection and the  
18 grid, an interconnection dispute resolution process, nor long-  
19 term grid planning for the State.

20 In the latter half of 2022, the public utilities commission  
21 approved Hawaiian Electric Company's recommendation to complete



1 the interconnection requirements study and total estimated  
2 interconnection cost for each phase 3 procurement project  
3 selected prior to the signing and filing of the power purchase  
4 agreement with the public utilities commission for approval.

5       However, phase 3 procurement projects are required to  
6 assume interconnection costs prior to the completion of the  
7 interconnection requirements study and total estimated  
8 interconnection cost. If these costs are higher than what the  
9 project assumed before or after bid submission to the public  
10 utilities commission, the project is not allowed to adjust its  
11 bid price to reflect the higher-than-anticipated cost.

12 Moreover, under the commission-approved model power purchase  
13 agreement, Hawaiian Electric Company, which performs the  
14 interconnection construction, is further permitted to increase  
15 the project's interconnection costs. Thus, the revised process  
16 approved by the public utilities commission does not result in  
17 meaningful reform to the interconnection issues impacting timely  
18 and cost-effective renewable energy development, which affects  
19 the ratepayer.

20       Also in the latter half of 2022, Hawaiian Electric Company  
21 issued four separate requests to Hawaii island customers to



1 limit their use of electricity to prevent the possibility of  
2 rolling blackouts due to factors including the unexpected loss  
3 of several large generators, lower wind resources, and lower-  
4 than-expected geothermal output. This further substantiates the  
5 urgency to create and implement reliability standards through a  
6 Hawaii electric reliability administrator.

7 The legislature also finds that the State does not regulate  
8 interconnection costs, which results in the ratepayer bearing  
9 the full financial burden of interconnection costs and utility  
10 network upgrades in the electricity rates. The Federal Energy  
11 Regulatory Commission, an independent federal agency that  
12 regulates the interstate transmission of natural gas, oil, and  
13 electricity and natural gas and hydropower projects, has  
14 developed a simple test for distinguishing interconnection  
15 facilities from network upgrades. In its Order No. 2003, the  
16 Federal Energy Regulatory Commission stated that,  
17 "interconnection facilities are found between the  
18 interconnection customer's generating facility and the  
19 transmission provider's transmission system [...] [N]etwork  
20 upgrades include only facilities at or beyond the point where  
21 the interconnection customer's generating facility interconnects



1 to the transmission provider's transmission system." This  
2 distinction clarifies and determines which party has ultimate  
3 cost responsibility. Order No. 2003 also generally found that  
4 "it is just and reasonable for the interconnection customer to  
5 pay for interconnection facilities but not for network  
6 upgrades."

7 Establishing grid reliability standards, regulating the  
8 timely and transparent interconnection of utility-scale  
9 renewable energy projects, and distinguishing the cost  
10 responsibilities between interconnection facilities and utility  
11 network upgrades will help to bring utility-scale renewable  
12 energy projects online sooner; decrease electricity rates for  
13 consumers; provide project developers with added certainty  
14 regarding project timelines and transparent costs; encourage  
15 lower bid prices; achieve the State's renewable portfolio  
16 standard goals; establish long-term institutional knowledge  
17 within the public utilities commission; reduce greenhouse gas  
18 emissions; and mitigate the effects of climate change.

19 Accordingly, the purpose of this Act is to:

20 (1) Establish the Hawaii electricity reliability surcharge  
21 special fund and subaccount;



- 1           (2) Require the public utilities commission to establish  
2           reliability standards and interconnection requirements  
3           for all electric utilities and all users, owners, or  
4           operators of the Hawaii electric system and determine  
5           the responsible party to bear any costs associated  
6           with any reliability standards as interconnection  
7           requirements;
- 8           (3) Require the public utilities commission to:
- 9           (A) Distinguish between interconnection facilities  
10           and utility network upgrades;
- 11           (B) Ensure that the cost of interconnection  
12           facilities is the responsibility of the  
13           interconnection customer;
- 14           (C) Ensure that the cost of utility network upgrades  
15           at and beyond the point of interconnection to the  
16           utility's transmission system is the sole  
17           responsibility of the utility transmission  
18           provider; and
- 19           (D) Open an investigation into the cost of past  
20           project delays and determine, as deemed  
21           appropriate, whether and how the electric utility



1                   should be penalized and whether ratepayers should  
2                   be compensated for high electric bills that could  
3                   have been avoided if projects were timely;

4           (4)   Establish a timeline and requirements for  
5                   interconnection procedures to be established by the  
6                   public utilities commission for certain utility-scale  
7                   renewable energy projects;

8           (5)   Make the public utilities commission's contracting for  
9                   the Hawaii electric reliability administrator  
10                  mandatory rather than discretionary; provided that the  
11                  Hawaii electricity reliability administrator surcharge  
12                  has been established;

13          (6)   Beginning January 1, 2024, require the Hawaii  
14                  electricity reliability administrator surcharge to be  
15                  imposed on the bills of customers of investor-owned  
16                  electric utility companies to cover the complete cost  
17                  of the Hawaii electricity reliability administrator  
18                  and deposited into the Hawaii electricity reliability  
19                  surcharge special fund; and



1 (7) Require the public utilities commission to submit an  
2 annual report and assessment of the Hawaii electric  
3 reliability administrator to the legislature.

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

7 "§269- Hawaii electricity reliability surcharge special  
8 fund; subaccount. (a) There is established a Hawaii  
9 electricity reliability surcharge special fund into which shall  
10 be deposited:

11 (1) The funds collected by the Hawaii electricity  
12 reliability administrator surcharge pursuant to  
13 section 269-149; and

14 (2) Appropriations made by the legislature for deposit  
15 into the fund.

16 (b) The moneys collected in the Hawaii electricity  
17 reliability surcharge special fund shall be expended by the  
18 public utilities commission for any and all expenses related to  
19 ensuring the reliable operation of the Hawaii electric system  
20 and overseeing grid access on the Hawaii electric system.



1        (c) There is established the Hawaii electricity  
2 reliability surcharge special fund subaccount into which shall  
3 be deposited surcharge transfers from investor-owned electric  
4 utility companies. Subject to approval by the public utilities  
5 commission, the Hawaii electricity reliability administrator may  
6 draw on the subaccount pursuant to section 269-149."

7        SECTION 3. Section 269-142, Hawaii Revised Statutes, is  
8 amended to read as follows:

9        "[+]§269-142[+] **Reliability standards; interconnection**  
10 **requirements; adoption and development; force and effect.** (a)  
11 The commission [~~may~~] shall adopt, by rule or order, reliability  
12 standards and interconnection requirements. Reliability  
13 standards and interconnection requirements adopted by the  
14 commission shall apply to any electric utility and any user,  
15 owner, or operator of the Hawaii electric system. The  
16 commission shall not contract for the performance of the  
17 functions under this subsection to any other entity as provided  
18 under section 269-147.

19        (b) The commission [~~may~~] shall develop reliability  
20 standards and interconnection requirements as it determines  
21 necessary or upon recommendation from any entity, including an



1 entity contracted by the commission to serve as the Hawaii  
2 electricity reliability administrator provided for under this  
3 part, for the continuing reliable design and operation of the  
4 Hawaii electric system. The commission shall determine the  
5 responsible party to bear any costs associated with any  
6 reliability standards or interconnection requirements. Any  
7 reliability standard or interconnection requirement developed by  
8 the commission shall be adopted by the commission in accordance  
9 with subsection (a) in order to be effective. The commission  
10 shall not contract for the performance of the functions under  
11 this subsection to any other entity as provided under section  
12 269-147.

13 (c) The commission shall:

- 14 (1) Distinguish between interconnection facilities and  
15 utility network upgrades;  
16 (2) Ensure that the cost of interconnection facilities is  
17 the responsibility of the interconnection customer;  
18 (3) Ensure that the cost of utility network upgrades at  
19 and beyond the point of interconnection to the  
20 utility's transmission system is the sole



1           responsibility of the utility transmission provider;  
2           and  
3           (4) Open an investigation into the cost of past project  
4           delays and determine, as deemed appropriate, whether  
5           and how the electric utility should be penalized and  
6           whether ratepayers should be compensated for high  
7           electric bills that could have been avoided if  
8           projects were timely.

9           [~~(e)~~] (d) The commission shall have jurisdiction over  
10 matters concerning interconnection requirements and  
11 interconnections located in the State between electric  
12 utilities, any user, owner, or operator of the Hawaii electric  
13 system, or any other person, business, or entity connecting to  
14 the Hawaii electric system or otherwise applying to connect  
15 generation or equipment providing ancillary services to, or  
16 operate generation and equipment providing ancillary services in  
17 parallel with the Hawaii electric system under processes  
18 established in accordance with section 269-145. Nothing in this  
19 subsection is intended to give the commission general  
20 supervision authority over any user, owner, or operator of the



1 Hawaii electric system or any other person, business, or entity  
2 that is not a public utility as defined in section 269-1.

3 (e) For purposes of this section:

4 "Generating facility" means the specific device for which  
5 the interconnection customer has requested interconnection.

6 "Interconnection customer" means the owner of the  
7 generating facility that is interconnecting at the utility point  
8 of interconnection at the transmission provider's transmission  
9 system.

10 "Interconnection facilities" means facilities that are  
11 found between the interconnection customer's generating facility  
12 and the utility transmission provider's transmission system.

13 "Transmission provider" means the entity or entities with  
14 which the generating facility is interconnecting.

15 "Utility network upgrades" means facilities at or beyond  
16 the point where the interconnection customer's generating  
17 facility interconnects to the utility transmission provider's  
18 transmission system."

19 SECTION 4. Section 269-145, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           " [†]§269-145[†] **Grid access; procedures for**  
2 **interconnection; dispute resolution.** (a) Each user, owner, or  
3 operator of the Hawaii electric system, or any other person,  
4 business, or entity seeking to make an interconnection on the  
5 Hawaii electric system shall do so in accordance with procedures  
6 to be established by the commission by rule or order.

7           (b) The commission shall establish interconnection  
8 procedures as follows:

9           (1) The commission shall include in any interconnection  
10 procedures established pursuant to this section  
11 requirements that the electric public utility:

12           (A) Complete the interconnection design;

13           (B) Reach agreement with the renewable energy project  
14 developer;

15           (C) File a request with the commission for  
16 interconnection or line extension approval, if  
17 required;

18           (D) Meet the requirements under subparagraphs (A)  
19 through (C) as soon as practicable;

20           (E) Meet timelines and deadlines as determined by the  
21 commission; and



- 1           (F) Submit interim reports to the commission on the  
2           status of the electric public utility's efforts  
3           to comply with the requirements of this  
4           subsection ninety days and one hundred eighty  
5           days after the renewable energy project power  
6           purchase agreement is filed with the commission  
7           for review and approval;
- 8           (2) If the electric public utility is unable to comply  
9           with the requirements of this subsection, the electric  
10           public utility shall report, in writing, the reasons  
11           for noncompliance to the commission within ten  
12           calendar days after the failure to meet timelines and  
13           deadlines established by the commission;
- 14           (3) If the electric public utility fails to meet the  
15           requirements established by the commission pursuant to  
16           this subsection, the electric public utility shall  
17           forfeit and return all moneys or other financial  
18           incentives that the electric public utility has  
19           received as part of any performance incentive  
20           mechanism program or similar incentive-based award



1           recognized by the commission in connection with the  
2           renewable energy project; and  
3       (4) The commission shall submit a report to the governor  
4           and legislature regarding any failure to meet the  
5           timing under this subsection by any electric public  
6           utility within thirty days of the commission receiving  
7           notice of this failure;  
8       provided that this subsection shall only apply to utility-scale  
9       renewable energy projects that are five megawatts in total  
10       output capacity or larger and to any community-based renewable  
11       energy projects that the commission has determined to be  
12       responsible for interconnection costs.

13           [~~(b)~~] (c) The commission shall have the authority to make  
14       final determinations regarding any dispute between any user,  
15       owner, or operator of the Hawaii electric system, or any other  
16       person, business, or entity connecting to the Hawaii electric  
17       system, concerning either an existing interconnection on the  
18       Hawaii electric system or an interconnection to the Hawaii  
19       electric system created under the processes established by the  
20       commission under this section."



1 SECTION 5. Section 269-146, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) The commission may require, by rule or order, that  
4 ~~[all]~~ any utilities, persons, businesses, or entities connecting  
5 to the Hawaii electric system, or any other user, owner, or  
6 operator of any electric element that is a part of an  
7 interconnection on the Hawaii electric system ~~[shall]~~ pay a  
8 surcharge that shall be collected by Hawaii's electric  
9 utilities. The commission shall not contract or otherwise  
10 delegate the ability to create the Hawaii electricity  
11 reliability surcharge under this section to any other entity.  
12 This surcharge amount shall be known as the Hawaii electricity  
13 reliability surcharge."

14 SECTION 6. Section 269-147, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) The commission ~~[may]~~ shall contract for the  
17 performance of its functions under this part with a person,  
18 business, or organization, except for a public utility as  
19 defined under this chapter, that will serve as the Hawaii  
20 electricity reliability administrator provided for under this  
21 part; provided that the Hawaii electricity reliability



1 administrator surcharge has been established pursuant to section  
2 269-146; provided further that the commission shall not contract  
3 for the performance of its functions under sections 269-142(a)  
4 and (b) and 269-146."

5 SECTION 7. Section 269-149, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[+]§269-149[+] **Funding; reporting.** (a) The Hawaii  
8 electricity reliability administrator shall use funds collected  
9 through the Hawaii electricity reliability surcharge provided  
10 for under section 269-146 to carry out its operations, including  
11 administrative, technological, or other related requirements for  
12 effectively ensuring the reliability of the Hawaii electric  
13 system. Beginning January 1, 2024, a Hawaii electricity  
14 reliability administrator surcharge shall be imposed on the  
15 bills of customers of investor-owned electric utility companies  
16 to cover the complete cost of the Hawaii electricity reliability  
17 administrator and deposited according to section 269- .

18 (b) The Hawaii electricity reliability administrator shall  
19 report to the commission each year on the date of agreement  
20 under section 269-147 following the original contracting between  
21 the Hawaii electricity reliability administrator and the



1 commission on the status of its operations, financial position,  
2 and a projected operational budget for the fiscal year following  
3 the date of the report.

4 (c) The Hawaii electricity reliability administrator shall  
5 be subject to regulation by the commission under any provision  
6 applicable to a public utility in sections 269-7, 269-8,  
7 269-8.2, 269-8.5, 269-9, 269-10, 269-13, 269-15, 269-19.5, and  
8 269-28. Notwithstanding any other provision of law to the  
9 contrary, the Hawaii electricity reliability administrator shall  
10 not be an electric public utility or an electric public utility  
11 affiliate.

12 (d) Within thirty days of receipt of the Hawaii electric  
13 reliability administrator's report submitted to the commission  
14 pursuant to this section, the commission shall submit to the  
15 legislature the report and the commission's assessment of the  
16 status and progress of the Hawaii electric reliability  
17 administrator in achieving and accomplishing the objectives of  
18 this part."

19 SECTION 8. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$ or so  
21 much thereof as may be necessary for fiscal year 2023-2024 to be



1 deposited into the Hawaii electricity reliability surcharge  
2 special fund.

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

5 SECTION 9. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 10. This Act shall take effect on June 30, 3000.



**Report Title:**

Public Utility Commission; Renewable Energy; Hawaii Electricity Reliability Surcharge Special Fund; Reliability Standards; Interconnection Requirements; Interconnection Facilities; Utility Network Upgrades; Hawaii Electricity Reliability Administrator; Appropriation

**Description:**

Establishes the Hawaii Electricity Reliability Surcharge Special Fund. Requires the Public Utilities Commission to establish reliability standards and interconnection requirements for all users, owners, or operators of the Hawaii electric system and determine the responsibility of costs associated with any reliability standards or inter-connection requirements. Requires the Public Utilities Commission to establish the distinction between interconnection facilities and utility network upgrades; ensure that the cost of interconnection facilities is the responsibility of the interconnection customer; ensure that the cost of utility network upgrades is the sole responsibility of the transmission provider; and open an investigation into the cost of past project delays and determine, as deemed appropriate, whether and how the electric utility should be penalized and whether ratepayers should be compensated for high electric bills that could have been avoided if projects were timely. Establishes a timeline and requirements for interconnection procedures to be established by the Public Utilities Commission for certain utility-scale renewable energy projects. Requires implementation of the Hawaii Electricity Reliability Administrator Law upon establishment of the Hawaii Electricity Reliability Administrator Surcharge. Beginning 1/1/2024, requires the surcharge to be imposed on certain customers to cover the costs of the Administrator to be deposited into the Hawaii Electricity Reliability Surcharge Special Fund Subaccount. Requires the Public Utilities Commission to submit a report and assessment of the Hawaii Electric Reliability Administrator to the Legislature. Appropriates funds. Effective 6/30/3000. (HD1)

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