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# A BILL FOR AN ACT

RELATING TO ENERGY.

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

1           SECTION 1. The legislature finds that it is imperative to  
2 enable the development of affordable clean energy resources for  
3 the benefit of utility customers in the State. Many existing  
4 generating units in Hawaii will need to be retired in the next  
5 few years due to obsolescence and environmental permitting  
6 requirements. The impending retirement of these units makes it  
7 urgent to obtain replacement resources, without which the  
8 reliability of electrical supplies in the State will be at risk.  
9 In addition, continued reliance on these aging units, even if  
10 feasible, would result in increased costs for utility customers  
11 and continued reliance on fossil fuels, contrary to the State's  
12 policy to transition to renewable, non-carbon-emitting  
13 resources.

14           The procurement of replacement clean energy resources by a  
15 certain investor-owned electric utility and its electric utility  
16 subsidiaries is ongoing in its stage 3 request for proposals and  
17 further anticipated in its first integrated grid planning



1 request for proposals. These requests for proposals implement  
2 energy plans that are developed through extensive engagement  
3 with local stakeholders and communities and reviewed and  
4 approved by the public utilities commission. The legislature  
5 finds that successful procurement of clean energy resources is  
6 in the public interest and necessary to avoid significant  
7 detrimental reliability and affordability impacts to electric  
8 utility customers.

9 The legislature also finds that the development of clean  
10 energy resources is essential to achieve the State's goals of  
11 one hundred per cent net electricity sales from renewable  
12 sources by 2045, a zero emissions economy by 2045, and greater  
13 energy security and energy diversification, as established by  
14 the Hawaii State Planning Act and existing public utility laws.

15 Accordingly, the purpose of this Act is to:

16 (1) Establish the wildfire liability trust fund to be  
17 administered by the Hawaii electricity reliability  
18 administrator;

19 (2) Require the public utilities commission to:

20 (A) Contract for a Hawaii electricity reliability  
21 administrator; and



1 (B) Require payment of the Hawaii electricity  
2 reliability surcharge.

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

6 "PART . WILDFIRE LIABILITY TRUST FUND

7 §269-A Definitions. As used in this part:

8 "Administrator" means the Hawaii electricity reliability  
9 administrator established under part IX.

10 "Catastrophic wildfire" means a wildfire occurring in the  
11 State on or after the operation date that destroys more than  
12 five hundred commercial structures or residential structures  
13 designed for habitation.

14 "Commission" means the public utilities commission.

15 "Contributor" means a public utility that satisfies all  
16 requirements to participate in the wildfire liability trust  
17 fund.

18 "Covered catastrophic wildfire" means a catastrophic  
19 wildfire that may have been caused, or whose severity may have  
20 been increased, by a contributor's facilities or actions.



1 "Electric utility" means a public utility that exists for  
2 the furnishing of electrical power.

3 "Executive director" means the executive director of the  
4 wildfire liability trust fund under the administrator.

5 "Fund" means the wildfire liability trust fund established  
6 pursuant to section 269-B.

7 "Government entity" means any government agency,  
8 department, division, subdivision, unit, component, bureau,  
9 commission, office, board, or instrumentality of any kind,  
10 including federal, state, and municipal entities.

11 "Investor-owned utility" means a public utility that is  
12 owned by shareholders and overseen by a board of directors  
13 elected by shareholders.

14 "Low carbon fuel" means fuel with a lower amount of  
15 lifecycle greenhouse gas emissions than that of fossil fuels.

16 "Operation date" means the first date for contributors to  
17 elect to participate in the wildfire liability trust fund  
18 pursuant to section 269-C(a) and any rules adopted pursuant to  
19 this part.



1 "Property insurer" means a person or entity that  
2 indemnifies another by a contract of insurance for loss of or  
3 damage to real or personal property in the State.

4 "Property owner" means an owner of real property in the  
5 State.

6 "Qualified claimant" means any property owner, property  
7 insurer, or tenant who alleges any qualifying damages.

8 "Qualifying action" means a civil action by a qualifying  
9 claimant to recover qualifying damages.

10 "Qualifying damages" means damages arising out of the loss  
11 of or damage to real or personal property from a covered  
12 catastrophic wildfire.

13 "Tenant" means a person or entity lawfully entitled to  
14 occupy real property in the State that the person or entity does  
15 not own.

16 "Wildfire risk mitigation capital expenditures" means  
17 investments required by the administrator consistent with a  
18 wildfire risk mitigation plan.

19 "Wildfire risk mitigation plan" means a plan, which may  
20 include a natural hazard mitigation report, in which a public



1 utility addresses how the public utility will mitigate the risk  
2 to its equipment in the event of a wildfire.

3       **§269-B Wildfire liability trust fund; establishment;**  
4 **executive director.** (a) There is established outside the state  
5 treasury a wildfire liability trust fund and any accounts  
6 thereunder to carry out the purposes of this part. All moneys  
7 in the fund shall be administered by the administrator and  
8 expended exclusively for the uses and purposes set forth in this  
9 section. The fund shall not be subject to chapter 431. Any  
10 moneys in the fund not required for immediate use shall be  
11 invested by the executive director for the benefit of the fund  
12 or wildfire risk mitigation capital expenditures for the benefit  
13 of ratepayer safety; provided that no assets of the fund shall  
14 be transferred to the general fund of the State or to any other  
15 fund of the State or otherwise encumbered or used for any  
16 purpose other than those specified for the fund.

17       (b) The governor shall appoint an advisor to the wildfire  
18 liability trust fund, who shall be exempt from chapter 76, and  
19 shall fix the executive director's compensation.

20       (c) The executive director shall be responsible for the  
21 day-to-day operations and management of the fund and shall



1 perform all functions necessary to implement this part,  
2 including entering into contracts and other obligations related  
3 to the operation, management, and administration of the fund,  
4 pursuant to the terms of the contract governing the  
5 administrator. The executive director may be removed only by  
6 the terms of the contract establishing the administrator.

7 **§269-C Eligibility for participation as a contributor;**

8 **contributions.** (a) To be eligible to participate as a  
9 contributor, a person or entity shall:

10 (1) Be a public utility that has a wildfire risk  
11 mitigation plan that has been approved or accepted by  
12 the commission;

13 (2) Notify the executive director, in the year before the  
14 person or entity becomes a contributor, that it  
15 intends to participate in the fund; and

16 (3) Agree to make an initial contribution, the payment of  
17 which shall be a binding commitment enforceable by the  
18 executive director.

19 (b) The initial contributions from investor-owned electric  
20 utilities collectively shall be:



1           (1) \$1,000,000,000 plus interest as provided in  
2           subsection (c) for amounts not securitized, which  
3           amounts shall be recovered from its customers in  
4           nonbypassable rates; and

5           (2) \$500,000,000, which amount shall be funded by  
6           shareholders of those investor-owned electric  
7           utilities and used exclusively for the payment of  
8           salaries of the executive director and of all other  
9           persons retained by the executive director to  
10          implement this part, with any funds remaining as of  
11          2035 to be transferred to the fund.

12          (c) An investor-owned electric utility may elect to make  
13          the initial contribution set forth in subsection (b)(1), to the  
14          degree not paid for through securitization, over a period not to  
15          exceed five years; provided that interest shall be added to any  
16          amounts paid after the first year, at an interest rate equal to  
17          the investor-owned electric utility's incremental cost of  
18          long-term debt, with the interest recovered from customers in  
19          rates.

20          (d) The executive director shall determine the initial  
21          contributions from other public utilities based on an actuarial



1 assessment of the risk of potential payments by the fund  
2 resulting from covered catastrophic wildfires created by a  
3 public utility.

4 (e) The executive director may propose supplemental  
5 contributions to the fund by participating public utilities or  
6 other entities involved in transmitting or distributing electric  
7 energy for sale to the public.

8 (f) If a contributor fails to pay any part of an initial  
9 contribution or a supplemental contribution that the contributor  
10 agreed to make, or elects not to agree to make a supplemental  
11 contribution, that contributor shall no longer be a contributor  
12 as of the date on which the payment was due, and the contributor  
13 shall not receive any refund of payments previously made;  
14 provided that a contributor that elects not to make a  
15 supplemental contribution shall be a contributor as to any  
16 catastrophic wildfire that occurs before the election date.  
17 After failing to, or electing not to, make a payment, a public  
18 utility may rejoin the fund as a contributor on a prospective  
19 basis if the public utility makes owed payments with interest.

20 (g) The executive director shall adopt rules pursuant to  
21 chapter 91 regarding the timing of initial and supplemental



1 contributions, which may include upfront, annual, and  
2 retrospective payments, including payments made after a wildfire  
3 occurs.

4 (h) Initial and supplemental contributions of  
5 investor-owned electric utilities shall constitute wildfire  
6 recovery costs.

7 **§269-D Determination of a covered catastrophic wildfire.**

8 The executive director shall adopt rules pursuant to chapter 91  
9 regarding how to determine whether a wildfire is a covered  
10 catastrophic wildfire. The rules shall include a requirement  
11 that a wildfire shall be determined to be a covered catastrophic  
12 wildfire if a party makes non-frivolous allegations in a legal  
13 action that a contributor's facilities caused or contributed to  
14 the severity of a catastrophic wildfire.

15 **§269-E Replenishment of the wildfire liability trust fund.**

16 (a) If the fund has made payments with respect to a covered  
17 catastrophic wildfire and after resolution of substantially all  
18 third-party liability claims that were brought or could be  
19 brought against contributors arising from that covered  
20 catastrophic wildfire, each contributor whose facilities were  
21 implicated in the covered catastrophic wildfire shall initiate a



1 proceeding before the commission to review the prudence of the  
2 public utility's conduct leading to the catastrophic wildfire.

3 (b) The commission shall determine whether the contributor  
4 acted prudently by:

5 (1) Considering only acts that may have caused the  
6 occurrence or contributed to the severity of the  
7 covered catastrophic wildfire;

8 (2) Evaluating the contributor's actions in the context of  
9 its overall systems, processes, and programs;

10 (3) Considering the recommendations of the executive  
11 director concerning the priority of wildfire risk  
12 mitigation capital expenditures, and the timeliness of  
13 contributor response; and

14 (4) Preventing a finding that any contributor action was  
15 prudent if it meets the standard of gross negligence.

16 (c) If the commission determines that imprudent conduct by  
17 the contributor caused the occurrence or contributed to the  
18 severity of a covered catastrophic wildfire, the commission  
19 shall determine whether to order the contributor to replenish  
20 the fund in whole or in part for payments from the fund in  
21 connection with the catastrophic wildfire. In determining the



1 amount of replenishment, if any, the commission shall consider  
2 the extent and severity of the contributor's imprudence and  
3 factors within and beyond the contributor's control that may  
4 have led to or exacerbated the costs from the covered  
5 catastrophic wildfire, including but not limited to humidity,  
6 temperature, winds, fuel, merged wildfires with independent  
7 ignitions, third-party actions that affected the spread of the  
8 wildfire, and fire suppression activities.

9 (d) For wildfire risk mitigation capital expenditures made  
10 by the executive director, the commission may determine whether  
11 to order the contributor to replenish the fund in whole or in  
12 part for payments from the fund in connection with the wildfire  
13 risk mitigation capital expenditures.

14 (e) Over any three-year period, the commission shall not  
15 order the contributor to reimburse the fund in an amount that  
16 exceeds twenty per cent of the contributor's transmission and  
17 distribution equity rate base.

18 (f) A contributor shall not recover in regulated rates any  
19 amount that the commission orders the contributor to pay to the  
20 fund as a replenishment under this section.



1           **§269-F Claims for payment by qualified claimants;**  
2 **presentment requirement; wildfire risk mitigation capital**  
3 **expenditures by executive director.** (a) The executive director  
4 shall adopt rules pursuant to chapter 91 to create a process:

5           (1) Through which a qualified claimant that is not a  
6           government entity may submit to the fund a claim for  
7           payment of economic damages arising out of property  
8           damage resulting from a covered catastrophic wildfire,  
9           including a deadline to submit claims; and

10           (2) By which the executive director can use the fund to  
11           make wildfire risk mitigation capital expenditures.

12           (b) A qualified claimant shall file a claim for payment  
13 for economic damages arising out of the loss of or damage to  
14 real or personal property from a covered catastrophic wildfire  
15 pursuant to this section. The claim of a qualified claimant  
16 that is not a property insurer shall be limited to uninsured  
17 economic damages. A qualified claimant shall not file or  
18 maintain a civil action against a contributor unless and until  
19 the qualified claimant rejects an offer of settlement from the  
20 fund. A qualified claimant who fails to file a claim by the  
21 deadline established by the executive director pursuant to rule



1 shall be ineligible to receive payment from the fund and shall  
2 be barred from instituting or maintaining any qualifying action  
3 against a contributor.

4 (c) The executive director shall make an offer to settle  
5 each claim submitted, which the claimant may accept or reject.  
6 In determining the amount of each offer, the executive director  
7 shall consider, at a minimum:

8 (1) The economic damages sought by all qualified claimants  
9 in the aggregate;

10 (2) The amount available to the fund relative to the  
11 amount under paragraph (1);

12 (3) The weight of any evidence of contributor liability;  
13 and

14 (4) The weight of any evidence of involvement of  
15 non-contributor third-parties.

16 (d) If the amount available to the fund, including assets  
17 held by the fund and all payments contributors are obligated to  
18 make to the fund, is less than fifty per cent of the aggregate  
19 liability limit as calculated in section 269-H, the fund shall  
20 make payment only to contributors pursuant to section 269-G.



1 (e) Wildfire risk mitigation capital expenditures  
2 undertaken by the executive director shall be chosen to reduce  
3 urgent risks that substantially increase the likelihood or  
4 magnitude of qualifying damages in the event of a covered  
5 catastrophic wildfire; provided that the expenditures shall be  
6 approved by the commission and shall not exceed a level to  
7 prevent claims for payment before the fund can be replenished.

8 **§269-G Claims for payment by contributors; rules.** The  
9 executive director shall adopt rules pursuant to chapter 91 to  
10 create a process through which a contributor may obtain payment  
11 from the fund to satisfy settled or finally adjudicated claims  
12 for recovery of qualifying damages after exhausting the  
13 contributor's available insurance. The rules shall establish  
14 the standard for approving any settlement. To the extent that  
15 the fund lacks sufficient funds to make a payment to a  
16 participating utility when sought, the fund shall make the  
17 payment upon receipt of contributions that contributors are  
18 obligated to make to the fund under payment schedules.

19 **§269-H Limitation on aggregate liability.** (a) The  
20 aggregate liability of all contributors for qualifying damages



1 arising from a covered catastrophic wildfire, including economic  
2 and non-economic damages, shall not exceed the lesser of:

3 (1) \$500,000,000; or

4 (2) The average assessed value of commercial structures  
5 and residential structures designed for habitation in  
6 the county in which the covered catastrophic wildfire  
7 occurred, multiplied by the number of commercial  
8 structures or residential structures designed for  
9 habitation that were destroyed, plus the value of  
10 personal property lost; or

11 (3) The aggregate assessed replacement value of commercial  
12 structures and residential structures designed for  
13 habitation in the county in which the covered  
14 catastrophic wildfire occurred, plus the value of  
15 personal property lost.

16 (b) The following amounts shall be added to determine  
17 whether the aggregate liability limit has been reached:

18 (1) Payments from the fund pursuant to section 269-F; and

19 (2) Payments by a contributor in connection with any  
20 settlement or judgment on a claim for qualifying  
21 damages.



1 (c) All civil actions arising out of a catastrophic  
2 wildfire shall be brought in the circuit in which the  
3 catastrophic wildfire occurred. The court shall adopt  
4 procedures to equitably apply the limit set forth in  
5 subsection (a) to all filed civil claims. All settlements or  
6 judgments for claims for qualifying damages shall be subject to  
7 approval by the court. The court shall not approve any  
8 settlement or judgment that would cause the aggregate liability  
9 of contributors to exceed the aggregate liability limit.

10 (d) A court shall consolidate cases arising from a covered  
11 catastrophic wildfire. Any circuit court that is not the  
12 consolidating court shall transfer any civil case to facilitate  
13 the consolidation.

14 **§269-I Limitations on claims.** (a) No qualifying action  
15 may be instituted or maintained by a qualified claimant against  
16 contributors or their affiliates, employees, agents, or insurers  
17 if the qualified claimant accepts an offer under section 269-F;  
18 provided that the rights of a property insurer to bring an  
19 action as a subrogee of its policyholder shall not be affected  
20 by a property owner's or tenant's acceptance of an offer under  
21 section 269-F and the subrogation rights shall be affected only



1 if the property insurer elects to accept an offer under  
2 section 269-F.

3 (b) No suit, claim, arbitration, or other civil legal  
4 action for indemnity or contribution for amounts paid, or that  
5 may be paid, as a result of a covered catastrophic wildfire,  
6 shall be instituted or maintained by any persons or entities  
7 against contributors or their affiliates, employees, agents, or  
8 insurers for damages arising out of the loss of or damage to  
9 real or personal property from a covered catastrophic wildfire.

10 **§269-J Several liability.** Any law to the contrary  
11 notwithstanding, joint and several liability shall not apply to  
12 any qualifying damages; provided that, in any action to recover  
13 qualifying damages from a person or entity, the person or entity  
14 may claim, in defense, apportionment of fault to any other  
15 person or entity regardless of whether that person or entity is  
16 a party to the action.

17 **§269-K Reporting; refunds authorized by legislature.** (a)  
18 The executive director shall submit to the legislature an annual  
19 report regarding the fund no later than ninety days before the  
20 beginning of each regular session through 2034. The annual



1 report submitted by the executive director shall include an  
2 update on the activities of the fund.

3 (b) No later than ninety days before the regular session  
4 of 2035, the executive director shall submit a report to the  
5 legislature regarding the financial status and resources of the  
6 fund relative to the then-current assessment of actuarial risk  
7 of a catastrophic wildfire.

8 (c) Based on the report in subsection (b), the legislature  
9 may determine, based on recommendation by the executive  
10 director, that the fund is overfunded and direct the executive  
11 director to refund contributions, in whole or in part. Any  
12 payments made to the fund that were recovered in regulated rates  
13 from customers, and any investment earnings associated with  
14 those payments, shall be refunded first.

15 **§269-L Admissibility of evidence.** Any findings made or  
16 evidence submitted for purposes of proceedings under sections  
17 269-D, 269-F, and 269-G shall be subject to the limits of  
18 admissibility under rule 408, Hawaii rules of evidence."

19 SECTION 3. Section 76-16, Hawaii Revised Statutes, is  
20 amended by amending subsection (b) to read as follows:



1           "(b) The civil service to which this chapter applies shall  
2 comprise all positions in the State now existing or hereafter  
3 established and embrace all personal services performed for the  
4 State, except the following:

- 5           (1) Commissioned and enlisted personnel of the Hawaii  
6                 National Guard and positions in the Hawaii National  
7                 Guard that are required by state or federal laws or  
8                 regulations or orders of the National Guard to be  
9                 filled from those commissioned or enlisted personnel;
- 10          (2) Positions filled by persons employed by contract where  
11                 the director of human resources development has  
12                 certified that the service is special or unique or is  
13                 essential to the public interest and that, because of  
14                 circumstances surrounding its fulfillment, personnel  
15                 to perform the service cannot be obtained through  
16                 normal civil service recruitment procedures. Any  
17                 contract may be for any period not exceeding one year;
- 18          (3) Positions that must be filled without delay to comply  
19                 with a court order or decree if the director  
20                 determines that recruitment through normal recruitment  
21                 civil service procedures would result in delay or



- 1 noncompliance, such as the Felix-Cayetano consent  
2 decree;
- 3 (4) Positions filled by the legislature or by either house  
4 or any committee thereof;
- 5 (5) Employees in the office of the governor and office of  
6 the lieutenant governor, and household employees at  
7 Washington Place;
- 8 (6) Positions filled by popular vote;
- 9 (7) Department heads, officers, and members of any board,  
10 commission, or other state agency whose appointments  
11 are made by the governor or are required by law to be  
12 confirmed by the senate;
- 13 (8) Judges, referees, receivers, masters, jurors, notaries  
14 public, land court examiners, court commissioners, and  
15 attorneys appointed by a state court for a special  
16 temporary service;
- 17 (9) One bailiff for the chief justice of the supreme court  
18 who shall have the powers and duties of a court  
19 officer and bailiff under section 606-14; one  
20 secretary or clerk for each justice of the supreme  
21 court, each judge of the intermediate appellate court,



1 and each judge of the circuit court; one secretary for  
2 the judicial council; one deputy administrative  
3 director of the courts; three law clerks for the chief  
4 justice of the supreme court, two law clerks for each  
5 associate justice of the supreme court and each judge  
6 of the intermediate appellate court, one law clerk for  
7 each judge of the circuit court, two additional law  
8 clerks for the civil administrative judge of the  
9 circuit court of the first circuit, two additional law  
10 clerks for the criminal administrative judge of the  
11 circuit court of the first circuit, one additional law  
12 clerk for the senior judge of the family court of the  
13 first circuit, two additional law clerks for the civil  
14 motions judge of the circuit court of the first  
15 circuit, two additional law clerks for the criminal  
16 motions judge of the circuit court of the first  
17 circuit, and two law clerks for the administrative  
18 judge of the district court of the first circuit; and  
19 one private secretary for the administrative director  
20 of the courts, the deputy administrative director of  
21 the courts, each department head, each deputy or first



- 1 assistant, and each additional deputy, or assistant  
2 deputy, or assistant defined in paragraph (16);
- 3 (10) First deputy and deputy attorneys general, the  
4 administrative services manager of the department of  
5 the attorney general, one secretary for the  
6 administrative services manager, an administrator and  
7 any support staff for the criminal and juvenile  
8 justice resources coordination functions, and law  
9 clerks;
- 10 (11) (A) Teachers, principals, vice-principals, complex  
11 area superintendents, deputy and assistant  
12 superintendents, other certificated personnel,  
13 and no more than twenty noncertificated  
14 administrative, professional, and technical  
15 personnel not engaged in instructional work;
- 16 (B) Effective July 1, 2003, teaching assistants,  
17 educational assistants, bilingual or bicultural  
18 school-home assistants, school psychologists,  
19 psychological examiners, speech pathologists,  
20 athletic health care trainers, alternative school  
21 work study assistants, alternative school



1 educational or supportive services specialists,  
2 alternative school project coordinators, and  
3 communications aides in the department of  
4 education;

5 (C) The special assistant to the state librarian and  
6 one secretary for the special assistant to the  
7 state librarian; and

8 (D) Members of the faculty of the University of  
9 Hawaii, including research workers, extension  
10 agents, personnel engaged in instructional work,  
11 and administrative, professional, and technical  
12 personnel of the university;

13 (12) Employees engaged in special, research, or  
14 demonstration projects approved by the governor;

15 (13) (A) Positions filled by inmates, patients of state  
16 institutions, and persons with severe physical or  
17 mental disabilities participating in the work  
18 experience training programs;

19 (B) Positions filled with students in accordance with  
20 guidelines for established state employment  
21 programs; and



- 1 (C) Positions that provide work experience training  
2 or temporary public service employment that are  
3 filled by persons entering the workforce or  
4 persons transitioning into other careers under  
5 programs such as the federal Workforce Investment  
6 Act of 1998, as amended, or the Senior Community  
7 Service Employment Program of the Employment and  
8 Training Administration of the United States  
9 Department of Labor, or under other similar state  
10 programs;
- 11 (14) A custodian or guide at Iolani Palace, the Royal  
12 Mausoleum, and Hulihee Palace;
- 13 (15) Positions filled by persons employed on a fee,  
14 contract, or piecework basis, who may lawfully perform  
15 their duties concurrently with their private business  
16 or profession or other private employment and whose  
17 duties require only a portion of their time, if it is  
18 impracticable to ascertain or anticipate the portion  
19 of time to be devoted to the service of the State;
- 20 (16) Positions of first deputies or first assistants of  
21 each department head appointed under or in the manner



1 provided in section 6, article V, of the Hawaii State  
2 Constitution; three additional deputies or assistants  
3 either in charge of the highways, harbors, and  
4 airports divisions or other functions within the  
5 department of transportation as may be assigned by the  
6 director of transportation, with the approval of the  
7 governor; one additional deputy in the department of  
8 human services either in charge of welfare or other  
9 functions within the department as may be assigned by  
10 the director of human services; four additional  
11 deputies in the department of health, each in charge  
12 of one of the following: behavioral health,  
13 environmental health, hospitals, and health resources  
14 administration, including other functions within the  
15 department as may be assigned by the director of  
16 health, with the approval of the governor; two  
17 additional deputies in charge of the law enforcement  
18 programs, administration, or other functions within  
19 the department of law enforcement as may be assigned  
20 by the director of law enforcement, with the approval  
21 of the governor; three additional deputies each in



1 charge of the correctional institutions,  
2 rehabilitation services and programs, and  
3 administration or other functions within the  
4 department of corrections and rehabilitation as may be  
5 assigned by the director of corrections and  
6 rehabilitation, with the approval of the governor; two  
7 administrative assistants to the state librarian; and  
8 an administrative assistant to the superintendent of  
9 education;

10 (17) Positions specifically exempted from this part by any  
11 other law; provided that:

12 (A) Any exemption created after July 1, 2014, shall  
13 expire three years after its enactment unless  
14 affirmatively extended by an act of the  
15 legislature; and

16 (B) All of the positions defined by paragraph (9)  
17 shall be included in the position classification  
18 plan;

19 (18) Positions in the state foster grandparent program and  
20 positions for temporary employment of senior citizens



- 1 in occupations in which there is a severe personnel  
2 shortage or in special projects;
- 3 (19) Household employees at the official residence of the  
4 president of the University of Hawaii;
- 5 (20) Employees in the department of education engaged in  
6 the supervision of students during meal periods in the  
7 distribution, collection, and counting of meal  
8 tickets, and in the cleaning of classrooms after  
9 school hours on a less than half-time basis;
- 10 (21) Employees hired under the tenant hire program of the  
11 Hawaii public housing authority; provided that no more  
12 than twenty-six per cent of the authority's workforce  
13 in any housing project maintained or operated by the  
14 authority shall be hired under the tenant hire  
15 program;
- 16 (22) Positions of the federally funded expanded food and  
17 nutrition program of the University of Hawaii that  
18 require the hiring of nutrition program assistants who  
19 live in the areas they serve;
- 20 (23) Positions filled by persons with severe disabilities  
21 who are certified by the state vocational



1 rehabilitation office that they are able to perform  
2 safely the duties of the positions;

3 (24) The sheriff;

4 (25) A gender and other fairness coordinator hired by the  
5 judiciary;

6 (26) Positions in the Hawaii National Guard youth and adult  
7 education programs;

8 (27) In the Hawaii state energy office in the department of  
9 business, economic development, and tourism, all  
10 energy program managers, energy program specialists,  
11 energy program assistants, and energy analysts;

12 (28) Administrative appeals hearing officers in the  
13 department of human services;

14 (29) In the Med-QUEST division of the department of human  
15 services, the division administrator, finance officer,  
16 health care services branch administrator, medical  
17 director, and clinical standards administrator;

18 (30) In the director's office of the department of human  
19 services, the enterprise officer, information security  
20 and privacy compliance officer, security and privacy  
21 compliance engineer, security and privacy compliance



- 1 analyst, information technology implementation  
2 manager, assistant information technology  
3 implementation manager, resource manager, community or  
4 project development director, policy director, special  
5 assistant to the director, and limited English  
6 proficiency project manager or coordinator;
- 7 (31) The Alzheimer's disease and related dementia services  
8 coordinator in the executive office on aging;
- 9 (32) In the Hawaii emergency management agency, the  
10 executive officer, public information officer, civil  
11 defense administrative officer, branch chiefs, and  
12 emergency operations center state warning point  
13 personnel; provided that for state warning point  
14 personnel, the director shall determine that  
15 recruitment through normal civil service recruitment  
16 procedures would result in delay or noncompliance;
- 17 (33) The executive director and seven full-time  
18 administrative positions of the school facilities  
19 authority;
- 20 (34) Positions in the Mauna Kea stewardship and oversight  
21 authority;



1 (35) In the office of homeland security of the department  
2 of law enforcement, the statewide interoperable  
3 communications coordinator;

4 (36) In the social services division of the department of  
5 human services, the business technology analyst;

6 (37) The executive director and staff of the 911 board;

7 [+] (38) [+] Senior software developers in the department of  
8 taxation;

9 [+] (39) [+] In the department of law enforcement, five Commission  
10 on Accreditation for Law Enforcement Agencies, Inc.,  
11 coordinator positions;

12 [+] (40) [+] The state fire marshal; ~~and~~

13 [+] (41) [+] The administrator for the law enforcement standards  
14 board[-]; and

15 (42) The advisor of the wildfire liability trust fund.

16 The director shall determine the applicability of this  
17 section to specific positions.

18 Nothing in this section shall be deemed to affect the civil  
19 service status of any incumbent as it existed on July 1, 1955."

20 SECTION 4. Section 269-146, Hawaii Revised Statutes, is  
21 amended as follows:



1           1. By amending its title and subsection (a) to read:  
2           "~~{}~~§269-146~~{}~~ **Hawaii electricity reliability surcharge;**  
3 **authorization; cost recovery.** (a) The commission [~~may~~] shall  
4 require, by rule or order, that all utilities, persons,  
5 businesses, or entities connecting to the Hawaii electric  
6 system, or any other user, owner, or operator of any electric  
7 element that is a part of an interconnection on the Hawaii  
8 electric system shall pay a surcharge that shall be collected by  
9 Hawaii's electric utilities~~{}~~ on behalf of the Hawaii  
10 electricity reliability administrator. The commission shall not  
11 contract or otherwise delegate the ability to create the Hawaii  
12 electricity reliability surcharge under this section to any  
13 other entity. This surcharge amount shall be known as the  
14 Hawaii electricity reliability surcharge."

15           2. By amending subsections (d) and (e) to read:  
16           "(d) The commission may allow an electric utility, on  
17 behalf of the Hawaii electricity reliability administrator, to  
18 recover appropriate and reasonable costs under the Hawaii  
19 electricity reliability surcharge for any interconnection to the  
20 Hawaii electric system, including interconnection studies and  
21 other analysis associated with studying the impact or necessary



1 infrastructure and operational requirements needed to reliably  
2 interconnect a generator, as well as from electric utility  
3 customers through a surcharge or assessment subject to review  
4 and approval by the commission under section 269-16.

5 (e) Nothing in this section shall create or be construed  
6 to cause amounts collected through the Hawaii electricity  
7 reliability surcharge to be considered state or public moneys  
8 subject to appropriation by the legislature or be required to be  
9 deposited into the state treasury[-], nor shall any amounts  
10 collected be considered a utility's property available to  
11 satisfy an obligation of that utility."

12 SECTION 5. Section 269-147, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[+]§269-147[+] **Hawaii electricity reliability**  
15 **administrator; contracting.** (a) The commission [~~may~~] shall  
16 contract for the performance of its functions under this part  
17 with a person, business, or organization, except for a public  
18 utility as defined under this chapter, that will serve as the  
19 Hawaii electricity reliability administrator provided for under  
20 this part; provided that the commission shall not contract for



1 the performance of its functions under sections 269-142(a) and  
2 (b) and 269-146.

3 (b) Any entity contracted by the commission to serve as  
4 the Hawaii electricity reliability administrator under this  
5 section shall be selected by the commission in accordance with  
6 state law, including chapter 103D. The Hawaii electricity  
7 reliability administrator, [~~if so~~] when enabled by the  
8 commission through mutual agreement under the laws of the State  
9 of Hawaii, shall hold the powers and rights delegated by the  
10 commission under this part for the term of the executed  
11 contract; provided that the commission shall retain full  
12 authority over the Hawaii electricity reliability administrator  
13 and the exclusive authority to carry out functions and  
14 responsibilities enumerated under sections 269-142(a) and (b)  
15 and 269-146."

16 SECTION 6. In codifying the new sections added by  
17 section 2 of this Act, the revisor of statutes shall substitute  
18 appropriate section numbers for the letters used in designating  
19 the new sections in this Act.

20 SECTION 7. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



**1** SECTION 8. This Act shall take effect on May 13, 2040.



**Report Title:**

Energy; PUC; HERA; Hawaii Electricity Reliability Surcharge;  
Wildfire Liability Trust Fund

**Description:**

Establishes the Wildfire Liability Trust Fund to be administered by the Hawaii Electricity Reliability Administrator. Requires, rather than allows, the Public Utilities Commission to contract for a HERA and require payment of the Hawaii electricity reliability surcharge. Effective 5/13/2040. (SD2)

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

