

JAN 17 2025

A BILL FOR AN ACT

RELATING TO WILDFIRES.

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

1 SECTION 1. The legislature finds that as the risk of
2 catastrophic wildfires in Hawaii has increased, so has the
3 threat of property damage from these fires. Although most
4 property owners have insurance, some do not, and others have
5 insurance that may not fully cover their losses.

6 The legislature further finds that when the cause of a
7 wildfire is uncertain or contested, costly and protracted
8 litigation ensues. Litigation regarding wildfire damages can
9 impose massive costs, including on the State, counties,
10 utilities, property owners, and other defendants that may be
11 alleged to have contributed to catastrophic wildfires. Those
12 costs can overwhelm major institutions in the community,
13 undermining their ability to make investments that the State
14 needs. Indeed, even the possibility of litigation regarding a
15 future catastrophic wildfire can create a cloud of uncertainty
16 that can impair an entity's ability to attract capital on
17 reasonable terms--capital that is vital for making investments



1 in wildfire prevention, among other priorities that may affect
2 the health and safety of the State's residents.

3 The legislature also finds that the risk of property damage
4 stemming from catastrophic wildfires may lead property insurers
5 to raise rates or refuse to provide coverage for certain losses
6 or certain high-risk areas of Hawaii--as occurred in the wake of
7 hurricane Iniki with respect to hurricane insurance.

8 The legislature additionally finds that it is in the public
9 interest to take steps to ensure that property insurance remains
10 available to cover losses associated with wildfires by providing
11 benefits to property insurers. Furthermore, the legislature
12 finds that it is in the public interest to ensure that the
13 threat of wildfires does not make investment in Hawaii's public
14 utilities so financially risky that it becomes too costly or
15 impossible for them to raise capital to implement vital plans,
16 including plans to mitigate wildfire risk, and to provide safe,
17 reliable, and affordable service to the people of the State.

18 Moreover, the legislature finds that it is in the public
19 interest to avoid the costs of litigation arising out of
20 catastrophic wildfires in order to protect Hawaii's economy and
21 encourage investment in the State. Therefore, the purpose of



1 this Act is to serve the public interest in the event of a
2 devastating wildfire by establishing a means to provide
3 compensation for property damage resulting from wildfires.

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

7 **"CHAPTER**

8 **WILDFIRE RELIEF FUND**

9 § -1 **Definitions.** As used in this chapter:

10 "Administrator" means the wildfire relief fund
11 administrator appointed pursuant to section -5.

12 "Board" means the wildfire relief fund corporation board of
13 directors created pursuant to section -4.

14 "Catastrophic wildfire" means a wildfire occurring on or
15 after the effective date of this Act that damages or destroys
16 more than five hundred residential or commercial structures.

17 "Contributor" means any person who contributes to the
18 wildfire relief fund as provided in section -3.

19 "Cooperative utility" means a public utility owned by
20 customers and overseen by a board of directors elected by
21 customers.



1 "Corporation" means the wildfire relief fund corporation
2 established pursuant to section -3.

3 "Electric utility" means a public utility that exists for
4 the furnishing of electrical power.

5 "Eligible claim" means a claim made by a property owner, or
6 the property owner's designated representative, for real
7 property lost or damaged due to a catastrophic wildfire.

8 "Investor-owned utility" means a public utility that is
9 owned by shareholders and overseen by a board of directors
10 elected by shareholders.

11 "Other governmental entities" refers to governmental
12 entities, including county government agencies, other than state
13 government agencies.

14 "Public utility" has the same meaning as defined in section
15 269-1.

16 "Wildfire relief fund" means the wildfire relief fund
17 established pursuant to section -2.

18 "Wildfire risk mitigation plan" means a plan approved by
19 the public utilities commission pursuant to section -9.

20 § -2 Wildfire relief fund; establishment. (a) There is
21 established outside the state treasury a wildfire relief fund



1 and any accounts thereunder to carry out the purposes of this
2 chapter.

3 (b) The wildfire relief fund shall be placed within the
4 department of commerce and consumer affairs for administrative
5 purposes. The fund shall be a public body corporate and
6 politic.

7 (c) Moneys deposited in the wildfire relief fund and any
8 accounts thereunder shall be held by the fund, as trustee, in a
9 depository, as defined in section 38-1, or according to a
10 similar arrangement at the discretion of the board.

11 (d) All moneys received by the corporation under this
12 chapter shall be paid immediately to the director of finance and
13 shall become a part of the wildfire relief fund.

14 (e) All payments authorized to be made by the corporation
15 under this chapter, including all payments for claims for
16 catastrophic wildfire damages, all salaries, and all other
17 expenses, shall be made from the wildfire relief fund.

18 (f) The moneys in the wildfire relief fund shall be
19 invested according to the same investment plans developed for
20 the Hawaii retirement savings special fund pursuant to chapter



1 389, and the earnings from the investments shall be credited to
2 the wildfire relief fund.

3 (g) All moneys in the wildfire relief fund shall be
4 appropriated and expended exclusively for the uses and purposes
5 set forth in this chapter; provided that this section shall not
6 be deemed to amend or impair the force or effect of any law of
7 this State specifically authorizing the investment of moneys
8 from the wildfire relief fund.

9 **§ -3 Wildfire relief fund corporation; establishment;**
10 **purposes; duties.** (a) There is established the wildfire relief
11 fund corporation, which shall be an independent public body and
12 a body corporate and politic.

13 (b) The corporation shall be established within the
14 department of commerce and consumer affairs for administrative
15 purposes.

16 (c) The purpose of the corporation shall be to administer
17 the payment of:

18 (1) Eligible claims arising from catastrophic wildfires
19 from the wildfire relief fund; and

20 (2) Contributions of contributors to the wildfire relief
21 fund.



(d) The corporation shall:

(1) Receive, process, and determine payments for eligible claims for property damage arising from catastrophic wildfires from the wildfire relief fund;

(2) Determine and enforce the collection of contributions from contributors to the wildfire relief fund;

(3) Retain, employ, or contract with officers; experts; employees; accountants; actuaries; financial professionals; and other advisers, consultants, attorneys, and professionals, as may be necessary in the administrator's judgment, for the efficient operation, management, and administration of the corporation;

(4) Enter into contracts and other obligations related to the operation, management, and administration of the corporation;

(5) Purchase insurance or take other actions to maximize the claims-paying resources of the wildfire relief fund;

(6) Pay costs, expenses, and other obligations of the corporation from the wildfire relief fund's assets;



(7) Take any actions necessary to collect any amounts owed to the wildfire relief fund; and

(8) Undertake other activities related to the operation, management, and administration of the wildfire relief fund, as approved by the board.

§ -4 Wildfire relief fund corporation; board of directors. (a) There is established a wildfire relief fund corporation board of directors, which shall consist of members appointed by the governor in accordance with section 26-34. The board shall be the policy-making body of the corporation. The board shall be responsible for adopting policies for the administration and operation of the wildfire relief fund and the performance of other duties and functions assigned to the fund, to the degree not specified in this chapter.

(b) The members of the board shall serve staggered terms, with one-half of the members' initial terms ending four years after the initial appointment, and one-half of the members' initial terms ending six years after the initial appointment. Thereafter, each member shall serve four-year terms. Vacancies



1 shall be filled for the remainder of any unexpired term in the
2 same manner as the original appointments.

3 (c) The chairperson of the board shall be elected from
4 among the appointed members of the board. A majority of all
5 members currently appointed to the board shall constitute a
6 quorum to conduct business, and the concurrence of a majority of
7 all members currently appointed to the board shall be necessary
8 to make any action valid, unless otherwise specified in this
9 chapter.

10 (d) Members of the board shall be appointed to ensure:

11 (1) A broad and balanced representation, with proper
12 judgment, character, expertise, skills, and knowledge
13 useful to the oversight of the corporation; and

14 (2) Diversity with regard to viewpoints, background, work
15 experience, and demographics.

16 The members of the board shall serve without compensation
17 but shall be reimbursed for actual and necessary expenses,
18 including travel expenses, incurred in the discharge of their
19 duties.

20 (e) The board shall meet at least once every three months
21 at a time and place determined by the board. The board shall



1 meet at other times and places as determined by the call of the
2 chairperson or by a majority of the members of the board.

3 (f) No later than twenty days before the convening of each
4 regular session, the board shall submit to the legislature and
5 governor a report regarding the activities and operations of the
6 corporation during the preceding year. The report shall
7 include, at a minimum, a description of:

8 (1) The effectiveness of the wildfire relief fund's
9 claims-payment process; and

10 (2) The level of participation in the wildfire relief fund
11 by all eligible participants, including property
12 owners, property insurers, and contributors.

13 The legislature shall consider the report in determining
14 whether any adjustments to the wildfire relief fund are
15 necessary.

16 (g) Each member of the board shall retain all immunities
17 and rights provided to a member pursuant to section 26-35.5.

18 **§ -5 Wildfire relief fund corporation; administrator.**

19 (a) The board shall appoint an administrator and oversee the
20 administrator's management and administration of the
21 corporation.



1 (b) The administrator shall serve at the pleasure of the
2 board and shall be exempt from chapter 76.

3 (c) The administrator shall have powers as are necessary
4 to carry out the functions of the corporation, subject to the
5 policy direction of the board.

6 (d) The administrator may employ, terminate, and supervise
7 employees, including assistants, experts, field personnel, and
8 clerks, as may be necessary for the administration of the
9 corporation.

10 (e) The board may overturn any decision of the
11 administrator through a majority vote.

12 (f) At the direction of the board, the administrator shall
13 prepare and present for approval a plan of operations related to
14 the operations, management, and administration of the wildfire
15 relief fund on an annual basis. At least annually and at the
16 direction of the board, the administrator shall submit the plan
17 of operations to the appropriate committees of the legislature.
18 The plan shall include but not be limited to reporting on the
19 wildfire relief fund's assets and projections for the duration
20 of the fund.



(g) At the direction of the board, the administrator shall at least annually prepare and publish on the corporation's website a public-facing report that describes the operations and activities of the corporation and wildfire relief fund during the preceding year, including a description of the financial condition of the wildfire relief fund.

§ -6 Wildfire relief fund and corporation; audit. (a)

The auditor shall conduct an annual financial audit of the corporation and wildfire relief fund pursuant to chapter 23. As part of this audit, the auditor may contract with a firm qualified to perform an independent actuarial review.

(b) The auditor shall determine the scope of the review required by this section, which shall include but not be limited to:

(1) A review of the sources and uses of the moneys in the wildfire relief fund;

(2) A reconciliation of changes in actuarial assumptions and reserve values from the preceding year;

(3) An examination of the development of claim reserve inadequacies or redundancies over time; and



1 (4) An assessment of the future financial viability of the
2 wildfire relief fund.

3 (c) The corporation shall cooperate with the actuarial
4 firm in all respects and shall permit the firm full access to
5 all information the firm deems necessary for a true and complete
6 review. Information provided to the actuarial firm conducting
7 the annual review shall be subject to the same limitations on
8 public inspections as are required for the records of the
9 corporation.

10 (d) The audit required by this section shall be conducted
11 using both generally accepted accounting principles and the
12 statutory accounting principles published by the National
13 Association of Insurance Commissioners.

14 (e) The cost of the audit required by this section shall
15 be paid by the corporation.

16 (f) The auditor shall issue an annual report to the
17 legislature and governor on the results of the audit and review.
18 The audit and report of the review performed by the independent
19 actuarial firm shall be available for public inspection, in
20 accordance with the auditor's established rules and procedures
21 governing public disclosure of audit documents.



(g) The legislature shall consider, after reviewing the annual report required by subsection (f), whether any adjustments to the wildfire relief fund should be implemented.

§ -7 Wildfire relief fund; participation. (a) The following entities may participate in the wildfire relief fund as contributors:

- (1) The State;
- (2) Electric utilities;
- (3) Public utilities that are not electric utilities that contribute to the risk of occurrence or severity of a catastrophic wildfire, including public utilities for the production, conveyance, transmission, delivery, or furnishing of gas and for the conveyance of telecommunications messages;
- (4) Other governmental entities; and
- (5) Private property owners who own, or whose affiliated persons or entities own in the aggregate, at least one thousand acres of land in Hawaii.

(b) To participate in the wildfire relief fund, an entity shall:



1 (1) Notify the administrator that it intends to
2 participate in the wildfire relief fund
3 by in the year preceding the year in which
4 the entity seeks to participate in the wildfire relief
5 fund; and

6 (2) Make required contributions to the wildfire relief
7 fund pursuant to section -8.

8 (c) A contributor that is also a property owner may make a
9 claim to the wildfire relief fund for compensation in the same
10 manner provided for in section -13 as other property owners;
11 provided that the contributor:

12 (1) Retains all of the rights, privileges, and obligations
13 of a contributor; and

14 (2) Notwithstanding any other provisions of this chapter
15 and regardless of the existence of a depletion event
16 under section -16(c), is bound by the limitation on
17 claims under section -18.

18 (d) Any person or entity that poses a risk of causing or
19 exacerbating the severity of a catastrophic wildfire that is not
20 eligible to participate as a contributor in the wildfire relief
21 fund may submit an application to the board for participation.



1 (e) The board shall adopt rules pursuant to chapter 91 and
2 issue criteria for applications submitted under subsection (d).

3 (f) The board shall include in its annual report to the
4 legislature and governor under section -4 all applications
5 submitted under subsection (d) and shall recommend to the
6 legislature whether participation criteria for contributors
7 should be broadened.

8 (g) Notwithstanding any provision to the contrary, an
9 electric utility that is subject to proceedings for liability or
10 insolvency claims related to a catastrophic wildfire as of the
11 effective date of this chapter may participate in the fund only
12 if the utility provides, and the commission approves, a plan
13 that satisfies the following conditions:

14 (1) The plan limits the burden on the ratepayers of the
15 electric utility;

16 (2) The plan provides for a review of the organizational
17 structure of the electric utility and the separation
18 of energy generation and energy transmission and
19 distribution;

20 (3) The plan provides for a review of local governance and
21 accountability, including a modification of the



1 governance structure and re-orientation of the
2 management and board of directors of the electric
3 utility, to create further safety accountability and
4 better representation of its customers, including
5 enhanced oversight and enforcement processes;

6 (4) The plan includes a framework for addressing wildfire
7 safety and risk management, including monitoring
8 independent review, oversight, and enforcement by the
9 public utilities commission, and performance-based
10 utility regulation, as defined by the public utilities
11 commission; provided that executive compensation shall
12 exclude any incentives associated with this chapter;

13 (5) The plan provides for periodic performance-based
14 management audits of the public utility;

15 (6) The plan is consistent with meeting the public
16 utility's and the State's renewable portfolio
17 standards, mandates, and obligations; and

18 (7) The utility has an approved risk-based wildfire
19 protection plan approved by the public utilities
20 commission; provided that the public utilities
21 commission shall determine the timeline for the plan



1 and when utility participation may begin within the
2 timeline.

3 § -8 Wildfire relief fund; funding. (a) Total
4 capitalization. The total capitalization amount of the wildfire
5 relief fund shall be \$. Neither the board nor the
6 administrator may modify the total capitalization amount, except
7 as otherwise expressly provided in this chapter.

8 (b) Actuarial study. The board shall commission an
9 actuarial study to be completed in 2025 to assess whether the
10 total capitalization amount should be increased or decreased
11 based on a holistic assessment of the risk of catastrophic
12 wildfires in Hawaii, and the potential exposure of the fund to
13 claims arising out of wildfires. The board shall include this
14 assessment in the annual report that it submits to the
15 legislature and governor under section -4. The legislature
16 shall consider that assessment, as well as other information
17 submitted in the annual report, to determine whether adjustments
18 to the wildfire relief fund, including to its total
19 capitalization amount, should be implemented.

20 (c) Time to total capitalization. The administrator shall
21 recommend to the board, and the board shall, by majority vote,



1 approve initial contribution amounts under \$ for
2 potential contributors, other than the State and electric
3 utilities, based on the actuarial factors identified in
4 subsection (b) and with the goal of, to the extent reasonably
5 possible, having the wildfire relief fund reach the total
6 capitalization amount within five years of the effective date of
7 this Act, taking into consideration reasonably expected
8 investment returns and assuming no payments will be made by the
9 wildfire relief fund during that time period.

10 (d) Capitalization amounts. With the exception of the
11 State's monetary contribution made pursuant to paragraph (4),
12 contribution amounts shall be divided by the administrator into
13 an initial contribution amount to be made by , and
14 annual contribution amounts to be made over a five-year period,
15 subject to the administrator's ability to increase payments
16 under the insufficient funding provision in subsection (g).

17 The wildfire relief fund shall be capitalized by the
18 following contributions:

- 19 (1) From other governmental entities that are eligible to
20 elect to participate in the wildfire relief fund, an
21 amount determined by the administrator based on an



1 actuarial assessment of the risk of payments to these
2 entities by the fund resulting from catastrophic
3 wildfires created by these entities, as well as the
4 risk of potential payments made by the fund resulting
5 from catastrophic wildfires created by these entities;

6 (2) From public utilities other than electric utilities
7 and private property owners that are in all cases
8 eligible to participate in the wildfire relief fund,
9 an amount determined by the administrator based on an
10 actuarial assessment of the risk of potential payments
11 by the wildfire relief fund resulting from
12 catastrophic wildfires created by these entities;

13 (3) From electric utilities, \$; and

14 (4) From the State, \$.

15 (e) The board shall determine the contribution amounts of
16 eligible contributors by ; provided that this date is
17 thirty days before the date by which participants are required
18 to notify the administrator of their intention to participate in
19 the wildfire relief fund. If an eligible contributor declines
20 to notify the administrator that the eligible contributor wishes
21 to participate in and become a contributor to the wildfire



1 relief fund, the board shall reduce the total capitalization
2 amount by subtracting the amount the board allocated to that
3 eligible contributor.

4 (f) If an electric utility, public utility other than an
5 electric utility, other governmental entity, or private property
6 owner elects to become a contributor after the initial
7 capitalization of the wildfire relief fund, the electric
8 utility, public utility other than an electric utility, other
9 governmental entity, or private property owner shall provide,
10 by in the year before the year in which the electric
11 utility, public utility other than an electric utility, other
12 governmental entity, or private property owner seeks to become a
13 contributor, an initial contribution in an amount determined by
14 the board by a majority vote upon the administrator's
15 recommendation, based on an up-to-date consideration of the
16 factors identified in subsection (b), such that the previous and
17 present initial contributions by all contributors reflect their
18 relative contributions to the risk of future payments from the
19 wildfire relief fund.

20 If necessary to achieve an allocation of initial
21 contributions, and if the election is made prior to the fifth



1 year of fund operation, the board shall reduce the amount of
2 annual contributions by one or more contributors who previously
3 made initial contributions until an allocation is reached. The
4 board shall increase the total capitalization amount of the fund
5 by the amount of the initial contribution of the new fund
6 contributor. The administrator may, in the administrator's
7 discretion, permit a new contributor under this subsection to
8 make payments over a five-year period.

9 (g) Insufficient funding. If the administrator determines
10 that payments made by the wildfire relief fund, and expected
11 future contributions by contributors and investment returns,
12 will result in the fund's: failing to reach the total
13 capitalization amount, as adjusted, as applicable, under
14 subsection (a), by the fifth year; or falling below the total
15 capitalization amount after the fifth year, including, in either
16 case, as a result of the legislature increasing the total
17 capitalization amount, the administrator shall recommend that
18 the board establish a supplemental contribution to be
19 contributed to the wildfire relief fund. Responsibility among
20 contributors for the supplemental contribution shall be
21 allocated as follows:



1 (1) The administrator shall recommend to the board, and
2 the board shall determine by majority vote, the
3 respective portions of the supplemental contribution
4 amount to be paid by each electric utility, other
5 public utility, other governmental entity, and private
6 property owner contributor, based on an up-to-date
7 assessment of the factors identified in subsection
8 (b); and

9 (2) The remaining amount of the supplemental contribution,
10 but not more than the largest contribution by other
11 contributors, shall be paid by the State, subject to
12 legislative appropriation.

13 (h) The administrator may allow contributors to pay
14 supplemental contributions via annual contributions, or in part
15 via an initial contribution followed by annual contributions,
16 unless the administrator determines that a contribution schedule
17 will create a material risk that the wildfire relief fund will
18 not reach or return to its total capitalization amount within a
19 reasonable period of time to perform the functions identified in
20 this chapter.



1 (i) If the board establishes a supplemental contribution
2 pursuant to subsection (g), before the wildfire relief fund
3 receives the supplemental contribution, the wildfire relief fund
4 may issue revenue bonds up to the amount of the supplemental
5 contribution, which shall be backed by future contributions to
6 the wildfire relief fund.

7 (j) The board may order supplemental contributions under
8 this chapter even if an investigation under the replenishment
9 process under section -9 is ongoing. In the event that
10 payments are later made under that replenishment process, the
11 board, provided that other conditions of the refunds section are
12 met pursuant to section -11, may refund supplemental
13 contributions in whole or in part.

14 (k) Utility contribution. Fifty per cent of an investor-
15 owned utility's contributions to the wildfire relief fund,
16 including initial and supplemental contributions, may be
17 recovered from its customers in rates, unless the public
18 utilities commission directs otherwise pursuant to
19 section -9.

20 (l) If the total amount of payments that the administrator
21 determines should be paid in connection with a catastrophic



1 wildfire pursuant to sections -13, -14, and -15 exceeds
2 the current balance of the wildfire relief fund, the State may
3 provide a loan to the wildfire relief fund in an amount up to
4 the depletion percentage, as determined by section -16(d).
5 The loan shall be repaid over time through annual contributions
6 by contributors.

7 **§ -9 Replenishment of the wildfire relief fund;**
8 **determination of prudence.** (a) If the administrator, or an
9 agency of the State with responsibility for determining the
10 causes of wildfires, informs the public utilities commission
11 that a catastrophic wildfire may have been ignited by the
12 facilities of an investor-owned utility that is a contributor,
13 the public utilities commission shall initiate a proceeding to
14 review the investor-owned utility's conduct leading to the
15 catastrophic wildfire and make findings. The public utilities
16 commission may, even without formal notice from the
17 administrator or the agency, initiate this proceeding of its own
18 accord.

19 (b) The public utilities commission shall evaluate the
20 prudence of the conduct of the investor-owned utility in
21 connection with a catastrophic wildfire as follows:



1 (1) If the investor-owned utility has a wildfire risk
2 mitigation plan that was approved by the public
3 utilities commission, the investor-owned utility's
4 conduct will be deemed to have been prudent, unless a
5 party to the proceeding creates a serious doubt as to
6 the prudence of the investor-owned utility's conduct;
7 or

8 (2) If the investor-owned utility does not have a wildfire
9 risk mitigation plan that was approved by the public
10 utilities commission, or if the public utilities
11 commission determines that the presumption is
12 overcome, the public utilities commission shall
13 determine whether the investor-owned utility acted
14 prudently, considering only acts that may have caused
15 the ignition and evaluating the utility's actions in
16 the context of the utility's overall systems,
17 processes and programs, such that an error by a
18 utility employee would not be a basis for a finding of
19 imprudence, unless that error was the result of an
20 imprudent system, process, or program.



1 (c) In evaluating prudence under this section, the public
2 utilities commission shall determine whether the actions of the
3 investor-owned utility were consistent with actions that a
4 reasonable utility would have undertaken in good faith under
5 similar circumstances, at the relevant point in time, and based
6 on the information available to the investor-owned utility at
7 the relevant point in time.

8 Reasonable conduct shall not be limited to the optimum
9 practice, method, or act to the exclusion of others, but rather
10 shall encompass a spectrum of possible practices, methods, or
11 acts consistent with utility system needs, the interest of
12 ratepayers, and the requirements of governmental agencies of
13 competent jurisdiction.

14 (d) If the public utilities commission determines that
15 imprudent conduct by the investor-owned utility caused the
16 catastrophic wildfire, the public utilities commission shall
17 determine whether to order the utility to reimburse the wildfire
18 relief fund in whole or in part for payments from the fund made
19 in connection with the catastrophic wildfire. In determining
20 the amount of reimbursement, if any, the public utilities
21 commission shall consider the extent and severity of the



1 utility's imprudence and factors within and beyond the utility's
2 control that may have led to or exacerbated the costs from the
3 catastrophic wildfire, including but not limited to humidity,
4 temperature, winds, fuel, merged wildfires with independent
5 ignitions, third-party actions that affected the spread of the
6 wildfire, and fire suppression activities.

7 (e) The public utilities commission shall not order the
8 investor-owned utility to reimburse the wildfire relief fund in
9 an amount that exceeds the lesser of:

10 (1) The costs that the public utilities commission
11 determines were due to the investor-owned utility's
12 imprudence; or

13 (2) Twenty per cent of the investor-owned utility's
14 transmission and distribution equity rate base minus
15 the amounts the utility has reimbursed, or is required
16 to reimburse, the wildfire relief fund during the
17 period of three consecutive calendar years ending on
18 December 31 of the year in which the calculation is
19 being performed.

20 (f) If the public utilities commission orders the
21 investor-owned utility to reimburse the wildfire relief fund,



1 the utility shall not recover the amount of the reimbursement in
2 rates charged to ratepayers.

3 (g) If the administrator, or an agency of the State with
4 responsibility for determining the causes of wildfires or other
5 catastrophic wildfires concludes that the conduct of a
6 cooperative utility, other governmental entity, or private
7 property owner that is a contributor may have caused the
8 occurrence or contributed to the severity of a catastrophic
9 wildfire, the administrator shall assess the prudence of the
10 contributor's conduct, applying the same standard of prudence
11 applied to investor-owned utilities pursuant to subsection (c).

12 (h) If the administrator determines that the contributor
13 acted imprudently and that the imprudence caused the occurrence
14 or contributed to the severity of the catastrophic wildfire, the
15 administrator shall recommend that the board require the
16 contributor to reimburse the wildfire relief fund in whole or in
17 part for payments that the fund made in connection with the
18 catastrophic wildfire, considering the factors set forth in
19 subsection (d), subject to a cap of ten per cent of the
20 contributor's assets within Hawaii, measured over a rolling
21 three-year period.



1 § -10 Failure to make contributions to wildfire relief

2 fund. (a) Contributors shall notify the administrator if they
3 will make, or fail to make, a required contribution, whether
4 initial, annual, or supplemental, to the wildfire relief fund at
5 least days before the contribution is due.

6 (b) If a contributor fails to make a required contribution
7 to the wildfire relief fund, that contributor shall no longer be
8 a contributor as of the date that the contribution was due.

9 That entity may, however, rejoin the fund under the process for
10 joining the fund after initial capitalization set forth in
11 section -8.

12 (c) The administrator shall not refund to an entity that
13 fails to make a contribution any previous payments made to the
14 wildfire relief fund. However, the administrator shall credit
15 all previous contributions when determining the amount of
16 payment to be made if a participant rejoins the fund under
17 subsection (b).

18 § -11 Refunds. (a) In the event that the total amount
19 in the wildfire relief fund exceeds one hundred twenty per cent
20 of the total capitalization amount, the administrator may
21 recommend that the board authorize refunds to be made to the



1 contributors; provided that the refunds do not deplete the
2 wildfire relief fund below one hundred twenty per cent of the
3 total capitalization amount.

4 (b) Refunds shall be made in proportion to the total
5 amount contributed by the contributors to the wildfire relief
6 fund as of the date of the refund, excluding any payments made
7 under the replenishment provisions under section -9.

8 (c) The administrator has no obligation to recommend, and
9 the board has no obligation to authorize, a refund. The board
10 shall make a refund only if it takes into consideration all
11 relevant factors and circumstances and determines that making a
12 refund will be unlikely to result in the wildfire relief fund's
13 falling below one hundred twenty per cent of total
14 capitalization within three years after the refund.

15 (d) Any contributor may request that the board make a
16 refund whenever the conditions under this section are met.

17 (e) If the board elects to issue a refund or elects not to
18 do so after receiving a request under subsection (d), the
19 administrator shall issue an order explaining the board's
20 decision.



1 § -12 Processing of claims. (a) With the approval of
2 the board, the administrator shall establish and approve
3 procedures for the review, approval, and timely payment of
4 claims for reimbursement from the wildfire relief fund. The
5 procedures may be revised from time to time by the administrator
6 with the approval of the board.

7 (b) In the event of a catastrophic wildfire within the
8 State, the administrator shall process claims made for
9 compensation against the wildfire relief fund related to the
10 catastrophic wildfire, consistent with the requirements of this
11 chapter.

12 § -13 Claims by property owners. (a) To be eligible
13 for compensation from the wildfire relief fund for damage to
14 property from a catastrophic wildfire, a property owner shall
15 not have opted out from participation in the wildfire relief
16 fund before the occurrence of the catastrophic wildfire.

17 (b) County tax assessors shall include, with each real
18 property tax assessment sent to an eligible property owner in
19 the State, a prominent notice regarding participation in the
20 wildfire relief fund. The notice shall be in a form prescribed
21 by the administrator and shall clearly explain the property



1 owner's right to opt out of participation in the wildfire relief
2 fund by submitting a request to opt out to the administrator
3 within a specific time. An eligible property owner who does not
4 submit a timely request to opt out shall be deemed to
5 participate in the wildfire relief fund as of the deadline for
6 submitting a request to opt out.

7 (c) Any costs of administering the process described in
8 subsection (b) shall be reimbursed by the wildfire relief fund.

9 (d) To opt out of participation in the wildfire relief
10 fund with regard to property either in areas within the State
11 that have been assigned extreme, high, and moderate wildfire
12 risk classes by , a property owner shall submit
13 documentation of insurance coverage for the property along with
14 the property owner's request to opt out of the wildfire relief
15 fund, and the administrator shall approve the documentation as
16 adequate evidence of insurance for the applicable property.

17 (e) Following a catastrophic wildfire, to make a claim for
18 compensation from the wildfire relief fund for damage to
19 property from the wildfire, a property owner shall submit to the
20 administrator documentation establishing:



(1) That the catastrophic wildfire damaged the owner's property;

(2) The extent of the losses to the owner's property caused by that catastrophic wildfire; and

(3) Any insurance policy providing coverage for those losses.

(f) Within ninety days after a property owner submits a claim for compensation from the wildfire relief fund, including the documentation required in this section, the administrator shall determine whether the documentation is adequate and, if so, the appropriate amount of the payment to the property owner from the wildfire relief fund. If the administrator determines that the property owner has not submitted sufficient documentation for the administrator to evaluate the claim, the administrator may request additional documentation from the property owner and may set a date by which the additional information shall be provided.

(g) If no insurance policy provides coverage for the losses for which a property owner seeks compensation from the wildfire relief fund, the property owner shall be eligible to



1 receive as compensation from the wildfire relief fund a maximum
2 of \$.

3 (h) If an insurance policy provides coverage for the
4 losses for which a property owner seeks compensation from the
5 wildfire relief fund, the property owner shall be eligible to
6 receive as compensation from the wildfire relief fund an amount
7 up to the lesser of:

8 (1) per cent of the amount by which the property
9 owner's losses exceed the amount of insurance coverage
10 for the losses; or

11 (2) per cent of the property owner's insurance
12 coverage applicable to the losses;

13 provided that the property owner submits adequate documentation
14 of those losses, as required by this section.

15 § -14 Claims by property insurers. (a) To be eligible
16 for compensation from the wildfire relief fund, a property
17 insurer shall have elected to participate in the fund before the
18 annual policy period in which the catastrophic wildfire
19 occurred. The administrator shall establish a process for
20 property insurers to annually submit an election to participate
21 in the fund to the administrator within a specified time.



1 (b) All property insurers who elect to participate in the
2 wildfire relief fund shall be eligible to receive as
3 compensation from the wildfire relief fund per cent of
4 their total payments for property damage claims in Hawaii as a
5 result of a catastrophic wildfire.

6 (c) Following a catastrophic wildfire, to make a claim for
7 compensation from the wildfire relief fund based on claims
8 resulting from the catastrophic wildfire, an eligible property
9 insurer shall submit to the administrator documentation
10 establishing the number, nature, and total value of the
11 insurance claims that the property insurer paid pursuant to its
12 policies for damage resulting from the catastrophic wildfire as
13 well as documentation sufficient to assess the reasonableness of
14 the property insurer's payment of claims.

15 (d) After receipt of a property insurer's claim for
16 compensation from the wildfire relief fund, including the
17 documentation required in this section, the administrator shall:

18 (1) Review via an expedited procedure the property
19 insurer's claim for compensation from the wildfire
20 relief fund; and

21 (2) Determine:



1 (A) Whether the documentation provided is adequate;
2 and

3 (B) The appropriate amount of the payment to the
4 property insurer from the fund.

5 § -15 Claims by the State and other governmental
6 entities. (a) The State may submit claims for compensation
7 from the wildfire relief fund for damages it incurred resulting
8 from a catastrophic wildfire, including damage to infrastructure
9 or other property, costs of fire suppression, and natural
10 resource damages, to the extent recovery of the losses is
11 authorized by law.

12 (b) Other governmental entities may submit claims for
13 compensation from the wildfire relief fund for damages they
14 incurred resulting from a catastrophic wildfire, including
15 damage to infrastructure or other property and other losses, to
16 the extent recovery of the losses is authorized by law; provided
17 that to be eligible for compensation from the wildfire relief
18 fund related to a catastrophic wildfire, another governmental
19 entity shall elect to be a contributor and shall have satisfied
20 contribution obligations pursuant to section -8 before the
21 occurrence of the catastrophic wildfire.



1 (c) To make a claim under this section, the State or other
2 governmental entity shall submit to the administrator
3 documentation establishing:

4 (1) That the catastrophic wildfire caused the damages;

5 (2) The extent of the damages caused by the catastrophic
6 wildfire; and

7 (3) Any other documentation necessary to establish the
8 State's or other governmental entity's right to
9 recover the losses pursuant to law.

10 (d) After receipt of a claim for compensation from the
11 wildfire relief fund pursuant to this section, the administrator
12 shall determine whether the State or other governmental entity
13 is authorized to recover damages under applicable law and, if
14 so, the appropriate amount of the payment.

15 § -16 Fund depletion. (a) Within thirty days of a
16 catastrophic wildfire, the administrator shall assess whether
17 the total payments that the wildfire relief fund is projected to
18 make to eligible property owners, property insurers, and the
19 State and other governmental entities under
20 sections -13, -14, and -15, respectively, are expected
21 to exceed seventy-five per cent of the total available money



1 remaining in the wildfire relief fund. The board shall adopt
2 rules pursuant to chapter 91 regarding the performance of this
3 assessment.

4 (b) If the administrator assesses pursuant to subsection
5 (a) that the total payments that the wildfire relief fund is
6 projected to make to eligible property owners, property
7 insurers, and the State and other governmental entities under
8 sections -13, -14, and -15, respectively, are expected
9 to exceed seventy-five per cent of the total available money
10 remaining in the wildfire relief fund, the administrator shall
11 seek to increase the total amount of money in the fund using all
12 available methods under this chapter.

13 (c) Depletion event. If the administrator is unable,
14 despite taking the steps under subsection (b), to secure
15 sufficient additional funding for the wildfire relief fund,
16 including credible pledges for future funding, to reverse the
17 administrator's assessment under subsection (b) within
18 forty-five days, the administrator shall declare the existence
19 of a depletion event.

20 (d) Depletion percentage. If the administrator declares
21 the existence of a depletion event, the administrator shall



1 determine what percentage of total eligible payments the
2 wildfire relief fund can make without the likelihood that the
3 payments will exceed seventy-five per cent of the total
4 available money in the wildfire relief fund. This percentage
5 shall be deemed the depletion percentage.

6 (e) Depletion payment. The administrator shall thereafter
7 offer all property owners, property insurers, the State, and
8 other governmental entities that submit claims for compensation
9 from the wildfire relief fund and would otherwise, under
10 sections -13, -14, and -15, respectively, be entitled
11 to a particular payment amount, that amount multiplied by the
12 depletion percentage. This amount shall be deemed the depletion
13 payment.

14 (f) All claimants that are offered the depletion payment
15 may choose to accept or decline the payment. Any property owner
16 or property insurer, other than a contributor, that declines to
17 accept the depletion payment shall:

- 18 (1) Be ineligible for any payments by the wildfire relief
19 fund with respect to the catastrophic wildfire for
20 which the claim was made; and



(2) Not be bound by the limitation on claims under section -18 with respect to only that catastrophic wildfire.

(g) After the payments to all claimants who accepted the depletion payment have been made, the administrator may recommend to the board, and the board may decide, in its discretion, to make a further payment to all claimants who accepted the depletion payment. The board shall adopt rules pursuant to chapter 91 for the making of this decision.

(h) Multiple catastrophic events. The board shall adopt rules pursuant to chapter 91 regarding how to pay claims in the event that one or more catastrophic wildfires occur while the corporation is in the process of assessing, receiving, determining, or paying claims from an earlier catastrophic wildfire.

§ -17 Hearings and appeals of determinations. (a) Within thirty days after the administrator's determination of the amount of payment due to any claimant from the wildfire relief fund pursuant to sections -13, -14, and -15, respectively, or the board's determination of a contributor's allocation for any contribution, the affected person or entity



1 may request a contested case hearing on that determination
2 before the department of commerce and consumer affairs, pursuant
3 to chapter 91.

4 (b) Upon receipt of a request for hearing on the
5 administrator or board's determination, the department of
6 commerce and consumer affairs shall refer the request for
7 hearing to the office of administrative hearings for
8 determination as expeditiously as possible. A hearing shall be
9 scheduled for a date no later than days after receipt by
10 the department of commerce and consumer affairs of the request
11 for a hearing.

12 (c) Following the conclusion of any hearing or before the
13 conclusion of the hearing, with the concurrence of the parties,
14 the office of administrative hearings shall promptly, and no
15 later than days after the hearing, decide the matter and
16 issue findings of fact, conclusion of law, and a decision in
17 accordance with the hearing officer's determination.

18 (d) Within days after the date on which a copy of
19 the office of administrative hearings' order is mailed to the
20 parties, a party may seek judicial review of the order by filing
21 a petition for review in the applicable circuit court, with a



1 right of appeal as allowed by law. If no petition is timely
2 filed, the order of the office of administrative hearings shall
3 be final.

4 **§ -18 Limitations on claims.** (a) No suit, claim, or
5 other civil legal action may be instituted or maintained against
6 contributors or their affiliates, employees, agents, or
7 insurers:

8 (1) For recovery of losses or damages of a type for which
9 compensation may be sought from the wildfire relief
10 fund; and

11 (2) By persons or entities:

12 (A) Who are contributors, property owners who do not
13 opt out of the wildfire relief fund, or property
14 insurers who elect to participate in the wildfire
15 relief fund; or

16 (B) Who seek indemnity or contribution for amounts
17 paid, or that may be paid, to contributors,
18 property owners who do not opt out of the
19 wildfire relief fund, or property insurers who
20 elect to participate in the wildfire relief fund.



1 (b) Persons or entities who are eligible to seek
2 compensation from the wildfire relief fund for property damage
3 arising from a catastrophic wildfire may not seek to recover for
4 damage from electric utilities, public utilities other than
5 electric utilities, the State, or private property owners who
6 are contributors, notwithstanding that the claimed property
7 damage may exceed the amount of payment by the wildfire relief
8 fund for the damage.

9 (c) The wildfire relief fund shall be subrogated to the
10 rights of the contributors, property owners who do not opt out
11 of the wildfire relief fund, and property insurers who elect to
12 participate in the wildfire relief fund, to the extent of any
13 payment made by the wildfire relief fund to those persons or
14 entities, and may pursue claims against a person or entity that
15 is not a contributor for damages resulting from the catastrophic
16 wildfire."

17 SECTION 3. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$ or so
19 much thereof as may be necessary for fiscal year 2025-2026 and
20 the same sum or so much thereof as may be necessary for fiscal
21 year 2026-2027 for deposit into the wildfire relief fund.



1 The sums appropriated shall be expended by the department
2 of commerce and consumer affairs for the purposes of this Act.

3 SECTION 4. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2025-2026 and
6 the same sum or so much thereof as may be necessary for fiscal
7 year 2026-2027 for the establishment of one full-time equivalent
8 (1.0 FTE) administrator position, who shall be exempt from
9 chapter 76, Hawaii Revised Statutes, to support the Hawaii
10 wildfire relief fund corporation; provided that in all
11 subsequent fiscal years, all funding for the administrator
12 position shall be paid from the wildfire relief fund.

13 The sums appropriated shall be expended by the department
14 of commerce and consumer affairs for the purposes of this Act.

15 SECTION 5. This Act shall take effect on July 1, 2025.

16
INTRODUCED BY:

Heidi M. Ruckelshaus



S.B. NO. 514

Report Title:

DCCA; Hawaii Wildfire Relief Fund; Hawaii Wildfire Relief Fund Corporation; Public Utilities Commission; Catastrophic Wildfire; Report; Appropriations

Description:

Establishes the Hawaii Wildfire Relief Fund and Hawaii Wildfire Relief Fund Corporation within the Department of Commerce and Consumer Affairs to provide compensation for property damage resulting from catastrophic wildfires in the State. Requires reports to the Legislature and Governor. Appropriates funds.

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

