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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 the State's  
2 electricity customers continue to experience the highest  
3 electricity prices in the nation, and that affordability of  
4 electric service is a paramount and overriding public  
5 interest concern for the State. Exorbitant and volatile  
6 electricity costs impose substantial and continuing burdens  
7 on households, businesses, public institutions, and critical  
8 services, exacerbating cost of living pressures, undermining  
9 economic competitiveness, and affecting the overall quality  
10 of life in the State.

11 The legislature further finds that restructuring the  
12 electric industry to separate electric generation from  
13 transmission and distribution, with generation operated under  
14 separate ownership and control from regulated transmission  
15 and distribution services, can accelerate the timely  
16 deployment of renewable energy resources by allowing the  
17 electric utility to focus on transmission and distribution



1 investment while enabling competitive generation development.

2 This acceleration is essential to stabilizing electricity

3 costs over the long term, reducing exposure to volatile fuel

4 prices, and improving affordability for ratepayers.

5 Increased deployment of renewable energy resources enabled by

6 the separated and expanded transmission and distribution

7 investment will support the creation of skilled,

8 family-sustaining jobs in electric system planning,

9 construction, operations, and maintenance, and will promote

10 local economic development through increased private

11 investment, workforce demand, and long-term infrastructure

12 development within the State.

13 The legislature further finds that constraints in

14 transmission and distribution capacity, together with delays

15 and inefficiencies in generation procurement and project

16 development, have limited the timely interconnection of new

17 renewable generation; including both utility-scale renewable

18 projects and customer-sited distributed energy resources;

19 slowed renewable integration; and contributed to continued

20 reliance on high-cost legacy resources, undermining the

21 State's ability to achieve long-term cost stability for



1 consumers. Inadequate investment in transmission and  
2 distribution infrastructure has delayed or restricted  
3 interconnection for residential and commercial distributed  
4 energy resources, including rooftop solar and energy storage,  
5 and has contributed to outages, extended restoration times,  
6 wildfire risk, and public safety concerns. Increased and  
7 more focused investment in the distribution system, supported  
8 by a clearer focus on transmission and distribution  
9 functions, is necessary to support customer generation, local  
10 resilience, broader participation in the clean energy  
11 transition, and targeted improvements in grid reliability,  
12 hardening, wildfire mitigation, and system resilience.

13 The legislature also finds that, beginning in the 1990s,  
14 a number of states undertook structural reforms of their  
15 electric industries, including full or partial separation of  
16 electricity sectors to allow for competitive generation  
17 segments while maintaining regulated transmission and  
18 distribution as natural monopolies. Retail competition in  
19 electric generation has been adopted in multiple states, and  
20 in those state jurisdictions, competition has encouraged  
21 innovation, improved efficiency and service quality, and



1 enabled cost reductions. However, Hawaii has not undertaken  
2 comparable structural separation and, with limited  
3 exceptions, electric service within the State continues to be  
4 provided primarily through vertically integrated monopoly  
5 utility operations. The experiences of other states that  
6 have restructured their electric industries may provide  
7 useful guidance, but any restructuring in Hawaii must be  
8 tailored to the State's unique and separated island electric  
9 systems, scale, and operational characteristics, including  
10 the absence of a statewide organized wholesale market, and to  
11 the State's public policy objectives.

12 The legislature further finds that chapter 269, Hawaii  
13 Revised Statutes, vests the public utilities commission with  
14 authority to regulate electric utilities in the public  
15 interest and to adopt rules necessary to carry out the  
16 purposes of that chapter, and that the legislature retains  
17 authority to determine the fundamental structure of the  
18 electric industry within the State as a matter of state  
19 policy. Advances in technology, changes in customer demand,  
20 the growth of distributed energy resources, and evolving



1 energy policy objectives have altered the fundamental  
2 characteristics of the electric power sector.

3 The legislature further finds that past electric industry  
4 restructuring efforts in other jurisdictions demonstrate the  
5 importance of maintaining resource adequacy, coordinated  
6 system planning, and effective regulatory oversight during  
7 periods of transition, and that the policy established by  
8 this Act is intended to avoid the risks associated with  
9 premature or uncoordinated market restructuring.

10 The legislature further finds that electric utilities  
11 generally are facing increasing capital, reliability, and  
12 public safety demands during the clean energy transition,  
13 including the need to modernize aging infrastructure, harden  
14 systems against wildfire and climate-related risks, and  
15 integrate higher levels of renewable and distributed energy  
16 resources. Providing clear statutory direction regarding  
17 industry structure supports prudent long-term planning,  
18 reduces regulatory uncertainty, and enables an orderly and  
19 phased implementation that protects ratepayers and promotes  
20 financial and system stability.



1        The legislature additionally finds that Hawaii relies on  
2        an aging electric generation fleet, including legacy units  
3        that have been in service for decades. Continued reliance on  
4        old and deteriorated electric power infrastructure,  
5        historically dependent on some of the costliest, least  
6        efficient, and most polluting fuels, has contributed to high  
7        costs borne by ratepayers. Reinvesting ratepayer funds in  
8        outdated generation facilities diverts limited customer dollars  
9        away from more affordable and reliable energy solutions. This  
10       underscores the urgent need to modernize and harden the  
11       electric system to improve reliability, reduce the frequency  
12       and duration of outages, protect public safety, and avoid  
13       economic disruption to communities and local businesses.

14       Accordingly, the purpose of this Act is to require the  
15       separation of ownership and control of electric energy  
16       generation services from transmission and distribution  
17       services to promote efficiency, innovation, transparency, and  
18       competition in the electric energy generation sector while  
19       protecting ratepayers and ensuring reliable, affordable, and  
20       sustainable electric service.



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

4 **"§269- Separation of electric generation services from**  
5 **transmission and distribution services; requirements.** (a) The  
6 public utilities commission shall adopt rules to require  
7 separate ownership and control of electric generation services  
8 from transmission and distribution services in the State, in  
9 furtherance of and pursuant to this chapter.

10 (b) The commission shall establish and implement a  
11 restructured electric industry in which electric generation  
12 services are open to competition and are provided by entities  
13 that are not under common ownership or control, directly or  
14 indirectly, with the electric utility, its parent holding  
15 company, or any affiliated entity, and that do not have any  
16 direct or indirect ownership interest, management role,  
17 governance rights, or material financial interest in electric  
18 generation services within the electric utility or its  
19 affiliated entities, while transmission and distribution service  
20 to end-use consumers shall continue to be provided by the  
21 electric utility as regulated monopoly services.



1                   (c) In implementing this section, the commission shall, at  
2 a minimum:

3                   (1) Ensure nondiscriminatory access to transmission and  
4 distribution facilities on just and reasonable terms  
5 for all providers of electric generation services,  
6 consistent with electric system reliability and public  
7 safety;

8                   (2) Require and enforce accounting, operational, and code  
9 of conduct requirements sufficient to promote  
10 transparency and prevent cross-subsidization, undue  
11 preference, or discrimination between transmission and  
12 distribution operations and any generation-related  
13 interests;

14                   (3) Ensure preservation of electric system reliability,  
15 continuity of service, and universal service  
16 obligations during and after implementation of the  
17 separation of ownership and control required by this  
18 section;

19                   (4) Ensure provision for the fair and reasonable recovery,  
20 through lawful regulatory mechanisms, of prudently  
21 incurred costs associated with existing electric



1           generation assets, including but not limited to  
2           stranded assets that may result from the separation  
3           required by this section, consistent with the public  
4           interest and protection of ratepayers;

5       (5)   Preserve all existing statutory programs and  
6           protections for customers, including consumer  
7           protection, energy efficiency, renewable energy,  
8           demand response, customer self-generation, and  
9           distributed energy resource programs, unless expressly  
10          modified by the legislature;

11       (6)   Require phased or staged implementation of the  
12          separation of ownership and control required by this  
13          section, including sequencing or transitional steps as  
14          appropriate to maintain electric system reliability,  
15          continuity of service, and public safety;

16       (7)   Provide for interim arrangements, as appropriate,  
17          governing the provision of electric generation,  
18          transmission, and distribution services during the  
19          transition period, including consideration of existing  
20          contracts and obligations, to reduce financial and



1       operational risk and to support system stability  
2       during implementation;

3       (8)   Protect and support workforce stability and continuity  
4       of skilled labor necessary to maintain electric system  
5       reliability, public safety, and continuity of service  
6       during and after the transition, including the  
7       protection of existing labor and collective bargaining  
8       agreements;

9       (9)   Require improvements in transmission and distribution  
10      investment, including grid hardening, wildfire  
11      mitigation, outage prevention, faster restoration, and  
12      expanded interconnection capacity for utility-scale  
13      and distributed renewable generation;

14      (10)   Ensure coordination between the electric utility and  
15      providers of electric generation services during any  
16      transition period to support operational continuity,  
17      resource adequacy, and electric system reliability;

18      (11)   Provide for transparency and meaningful stakeholder  
19      participation in the rulemaking and implementation  
20      process, consistent with chapter 91;



1       (12) Require the separation of ownership and control of  
2       electric generation assets and generation procurement  
3       functions from transmission and distribution  
4       operations, including provisions governing the  
5       disposition or transfer of existing generation assets  
6       and contracts, consistent with electric system  
7       reliability, the public interest, and the protection  
8       of ratepayers;

9       (13) Address the treatment of existing and future power  
10      purchase agreements with independent power producers;  
11      provided that the rules shall preserve and not impair  
12      existing contractual rights, lender protections, and  
13      step-in agreements established under state law,  
14      including protections established pursuant to part XI  
15      of this chapter; provided further that any rules  
16      adopted pursuant to chapter 91 shall ensure that,  
17      following implementation of the separation of  
18      ownership and control required by this section, the  
19      electric utility providing transmission and  
20      distribution service is not the long-term contracting  
21      party for electric generation, except as necessary on



1       a transitional basis or to support default service,  
2       electric system reliability, or resource adequacy;  
3       provided further that the rules shall not require the  
4       renegotiation or modification of existing power  
5       purchase agreements, except by mutual agreement of the  
6       parties; provided further that the rules may provide  
7       for the assignment, novation, or other lawful transfer  
8       of existing power purchase agreements, or alternative  
9       contractual arrangements, in a manner that preserves  
10      existing financing structures, credit support  
11      arrangements, and electric system reliability, and  
12      minimizes financial risk to ratepayers; and  
13      (14)    In adopting rules pursuant to chapter 91, consider at  
14      a minimum, the impacts of the required separation on  
15      electric system reliability, resource adequacy,  
16      affordability for ratepayers, transition costs,  
17      workforce stability, wildfire and public safety risk,  
18      and the need for coordinated system planning during  
19      and after implementation.  
20      (d)    The public utilities commission may establish  
21      milestones or benchmarks, as appropriate, to measure progress



1 toward implementation of the separation of ownership and control  
2 required by this section.

3       (e) The separation of ownership and control required by  
4 this section shall prohibit direct or indirect ownership,  
5 control, management, or any material financial interest, whether  
6 voting or non-voting, active or passive, in electric generation  
7 services by the electric utility providing transmission and  
8 distribution service, its parent holding company, or any  
9 affiliated entity, including through subsidiaries, intermediate  
10 entities, contractual arrangements, or other means that would  
11 have the effect of circumventing this section.

12       (f) This section shall not apply to an electric utility  
13 organized and operating as an electric cooperative.

14       (g) Upon the request of the commission, the electric  
15 utility and any state or county agency shall provide any  
16 information relevant to the rulemaking proceedings required  
17 under this section.

18       (h) The rules adopted pursuant to this section shall:  
19           (1) Ensure an orderly transition;  
20           (2) Be in compliance with all applicable state laws;



1       (3) Be conducted in a manner designed to support timely  
2       decision-making and implementation;  
3       (4) Be adopted in a single rulemaking proceeding; and  
4       (5) Not condition initiation of rulemaking under this  
5       section on the completion of any separate  
6       adjudicatory, investigative or planning docket.

7       (i) For the purposes of this section "separation of  
8       ownership and control" means the separation of electric  
9       generation services from transmission and distribution services  
10       through separate ownership and governance, including separation  
11       at the operational, decision-making, and financial levels,  
12       sufficient to eliminate incentives for preferential treatment or  
13       cross-subsidization, or undue influence directly or indirectly  
14       between generation and transmission and distribution functions."

15       SECTION 3. The public utilities commission shall submit a  
16       report of its findings and recommendations, including any  
17       proposed legislation, to the legislature no later  
18       than        days after the initiation of rulemaking required by  
19       this Act.

20       SECTION 4. The public utilities commission shall submit a  
21       report of its findings and recommendations, including any



1 proposed legislation, to the legislature no later than sixty  
2 days prior to the convening of each regular session until the  
3 final rules required under this Act are adopted pursuant to  
4 chapter 91, Hawaii Revised Statutes.

5 SECTION 5. Each report to the legislature required under  
6 sections 3 and 4 of this Act shall describe the rulemaking,  
7 including progress made toward implementing the separation of  
8 ownership and control of electric generation services from  
9 transmission and distribution services, any issues or  
10 barriers encountered that may affect timely adoption of the  
11 required rules, and any recommendations for statutory changes  
12 the public utilities commission determines are necessary to  
13 fully implement this Act, including proposed legislation  
14 necessary to carry out the purposes of this Act.

15 SECTION 6. If any provision of this Act, or the  
16 application thereof to any person or circumstance, is held  
17 invalid, the invalidity does not affect other provisions or  
18 applications of the Act that can be given effect without the  
19 invalid provision or application, and to this end the provisions  
20 of this Act are severable.

21 SECTION 7. New statutory material is underscored.



**1** SECTION 8. This Act shall take effect on July 1, 2050.



**Report Title:**

PUC; Electric Utilities; Generation Services; Transmission and Distribution Services; Separation Required; Rules; Reports

**Description:**

Requires the Public Utilities Commission to initiate the separation of ownership and control of electric energy generation services from transmission and distribution services through the adoption of rules. Requires reports to the Legislature. Effective 7/1/2050. (SD1)

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

