

ACT 118

S.B. NO. 3001

A Bill for an Act Relating to Energy Efficiency.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to clarify chapter 269, part VII, Hawaii Revised Statutes, relating to the administration and use of moneys supporting energy-efficiency and demand-side management programs and services.

SECTION 2. Chapter 269, part VII, Hawaii Revised Statutes, is amended to read as follows:

**“[H]PART VII. PUBLIC BENEFITS [FUND] FEE**

**[H]§269-121[H] Public benefits [fund] fee authorization.** (a) The public utilities commission, by order or rule, may [redirect] require that all or a portion of the [funds] moneys collected by Hawaii’s electric utilities from its ratepayers through [the current] a demand-side management surcharge [by Hawaii’s electric utilities into a public benefits fund that may be established by the public utilities commission.] be transferred to a third-party administrator contracted by the public utilities commission. The moneys transferred shall be known as the public benefits fee.

(b) [If the public utilities commission establishes a public benefits fund, the surcharge shall be known as the public benefits fee. Moneys in the fund shall be ratepayer funds that] The public benefits fee shall be used to support energy-efficiency and demand-side management programs and services, subject to the review and ap-

proval of the public utilities commission. These moneys shall not be available to meet any current or past general obligations of the State[-]; provided that the State may participate in any energy-efficiency or demand-side management programs and services on the same basis as any other electric consumer.

(c) Nothing in this section shall create or be construed to cause the public benefits fee to be considered state or public moneys subject to appropriation by the legislature or be required to be deposited into the state treasury.

**[H]§269-122[H] Public benefits [fund] fee administrator; establishment.**

(a) ~~[If the] The public utilities commission [establishes a public benefits fund, the public utilities commission shall appoint a fund]~~ may contract with a third-party administrator, to operate and manage any programs established under section 269-121. The administrator shall not be deemed to be a “governmental body” as defined in section 103D-104; provided that all moneys transferred to the third-party administrator shall be comprised solely of public benefit fees collected pursuant to section 269-121. The [fund] administrator shall not expend more than ten per cent of the [fund] collected public benefits fees in any fiscal year, or other reasonable percentage determined by the public utilities commission, for administration of the programs established under section 269-121.

(b) The [fund] public benefits fee administrator shall be subject to regulation by the public utilities commission~~[-, including pursuant to]~~ under any provision applicable to a public utility in sections 269-7, 269-8, 269-8.2, 269-8.5, 269-9, 269-10, 269-13, 269-15, 269-19.5, and 269-28, and shall report to the public utilities commission on a regular basis. Notwithstanding any other provision of law to the contrary, the [fund] public benefits fee administrator shall not be an electric public utility or an electric public utility affiliate.

**[H]§269-123[H] Requirements for the public benefits [fund] fee administrator.**

(a) Any [fund] public benefits fee administrator ~~[appointed]~~ contracted pursuant to section 269-122 shall satisfy the qualification requirements established by the public utilities commission by rule or order. These requirements may include experience and expertise in:

- (1) Energy-efficient and renewable energy technologies and methods; and
- (2) Identifying, developing, administering, and implementing demand-side management and energy-efficiency programs.

(b) The [fund] public benefits fee administrator's duties and responsibilities shall be established by the public utilities commission by rule or order, and may include:

- (1) Identifying, developing, administering, promoting, implementing, and evaluating programs, methods, and technologies that support energy-efficiency and demand-side management programs;
- (2) Encouraging the continuance or improvement of efficiencies made in the production, delivery, and use of energy-efficiency and demand-side management programs and services;
- (3) Using the energy-efficiency expertise and capabilities that have developed or may develop in the [State] state and consulting with state agency experts;
- (4) Promoting program initiatives, incentives, and market strategies that address the needs of persons facing the most significant barriers to participation;
- (5) Promoting coordinated program delivery, including coordination with electric public utilities regarding the delivery of low-income home energy assistance, other demand-side management or energy-efficiency programs, and any utility programs;
- (6) Consideration of innovative approaches to delivering demand-side management and energy-efficiency services, including strategies to en-

courage ~~[third-party]~~ third-party financing and customer contributions to the cost of demand-side management and energy-efficiency services; and

- (7) Submitting, to the public utilities commission for review and approval, a multi-year budget and planning cycle that promotes program improvement, program stability, and maturation of programs and delivery resources.

~~[§269-124]~~ **Transitioning from utility demand-side management programs to the public benefits ~~[fund]~~ fee.** If the public utilities commission establishes a public benefits ~~[fund]~~ fee pursuant to section 269-121, the public utilities commission shall:

- (1) Develop a transition plan that ensures that:
  - (A) Utility demand-side management programs are continued, to the extent practicable, until the transition date; and
  - (B) The ~~[fund]~~ public benefits fee administrator will be able to provide demand-side management and energy-efficiency services on the transition date;
- (2) Encourage programs that allow all retail electricity customers, including state and county agencies, regardless of the retail electricity or gas provider, to have an opportunity to participate in and benefit from a comprehensive set of cost-effective demand-side management and energy-efficiency programs and initiatives designed to overcome barriers to participation;
- (3) Encourage programs, measures, and delivery mechanisms that reasonably reflect current and projected utility integrated resource planning, market conditions, technological options, and environmental benefits;
- (4) Facilitate the delivery of these programs as rapidly as possible, taking into consideration the need for these services and cost-effective delivery mechanisms;
- (5) Consider the unique geographic location of the ~~[State]~~ state and the high costs of energy in developing programs that will promote technologies to advance energy efficiency and use of renewable energy and permit the ~~[State]~~ state to take advantage of activities undertaken in other states, including the opportunity for multi-state programs;
- (6) Require the ~~[fund]~~ public benefits fee administrator ~~[appointed]~~ contracted by the public utilities commission under section 269-122 to deliver programs in an effective, efficient, timely, and competent manner and to meet standards that are consistent with state policy and public utilities commission policy; and
- (7) Before January 2, 2008, and every three years thereafter, require verification by an independent auditor of the reported energy and capacity savings and incremental renewable energy production savings associated with the programs delivered by the ~~[fund]~~ public benefits fee administrator ~~[appointed]~~ contracted by the public utilities commission to deliver energy-efficiency and demand-side management programs under section 269-121.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2008.

(Approved May 28, 2008.)