

ACT 130

S.B. NO. 2809

A Bill for an Act Relating to Utilities Regulation.

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

SECTION 1. The public utilities commission and the department of commerce and consumer affairs' division of consumer advocacy are funded entirely by fees and other revenues collected by the commission and deposited in the public utilities commission special fund. This fund was established by the legislature by Act 226, Session Laws of Hawaii 1994, to ensure that the public utilities commission and the division of consumer advocacy would have sufficient resources to provide the essential services required to effectively regulate Hawaii's public utilities. At that time, the legislature recognized the need to provide adequate funding for the regulatory agencies, and found that, in addition to the ordinary processing of regulatory cases, adequate funding would allow the agencies to cut regulatory delays and handle the many challenges of the changing environment in public utilities.

The legislature finds that adequate staffing of the public utilities commission and the division of consumer advocacy is essential for these agencies to effectively perform their missions. The legislature acknowledged this in Act 226, Session Laws of Hawaii 1994, when it established the public utilities commission special fund; in Act 143, Session Laws of Hawaii 2006, when it required the public utilities commission and the division of consumer advocacy to prepare reorganization plans; and again in Act 177 and Act 183, Session Laws of Hawaii 2007, when it passed legislation to reorganize the two agencies to revitalize Hawaii's utility regulatory program. The reorganizations approved for these agencies by Act 177 and Act 183 provided for:

- (1) Increased staff levels;

- (2) Agency restructuring and amendments to the descriptions of several positions to modernize the operation of the agencies; and
- (3) Necessary relocation of the commission offices.

In fiscal year 2009-2010, the budget for the public utilities commission was reduced, taking away nine positions, leaving two additional positions unfunded, and leaving the previously-approved relocation of the public utilities commission offices unfunded. The lost positions negatively impact the overall reorganization plan and impede the commission's effectiveness.

Similarly, in fiscal year 2009-2010, the budget for the department of commerce and consumer affairs' division of consumer advocacy was reduced with the result that eight positions were taken away and new positions provided for in the reorganization of the division could not be filled. The legislature finds that this reduction in staff and budget severely impairs the division's ability to effectively meet its duties and objectives. Coupled with the additional effects of furloughs and other associated restrictions and reductions, there has been an approximately 9.5 per cent reduction in the division's employee work hours. At its present level of staffing and approved budget, the division faces difficulties that have required it to delay, as much as possible, participating in all of the matters filed with the commission. In addition, processing times for applications, licenses, registrations, investigations, and case-handling without a statutory time limit have all increased. To date in fiscal year 2009-2010, the division has not had sufficient staff or resources to participate in any applications related to certification of new telecommunications services providers and it has had to request more deadline extensions in matters of public utility regulation than in the past.

Currently, there are fifty-one funded permanent positions in the public utilities commission. Thirty-seven of these positions are filled, and fourteen positions are unfilled. Of these unfilled positions, eleven are new positions created by the reorganization approved by Act 177, Session Laws of Hawaii 2007. The commission is actively trying to obtain necessary approvals and find qualified applicants for the unfilled positions.

Currently, there are fifteen funded positions in the division of consumer advocacy. Eleven of these positions are filled and four positions are unfilled. The division is actively trying to obtain the necessary approvals and find qualified applicants for the remaining vacancies.

The legislature continues to believe that the reorganization of the public utilities commission and the division of consumer advocacy provided by Act 177 and Act 183, Session Laws of Hawaii 2007, is essential to sufficiently regulate Hawaii's public utilities; control utility costs for Hawaii's people, businesses, and government agencies; and successfully implement meaningful energy policy reform in Hawaii. It is especially important for these agencies to have sufficient resources to effectively and efficiently oversee Hawaii's transition from over-reliance on imported fossil fuels to energy efficiency and increased use of renewable energy. The public utilities commission and the division of consumer advocacy will oversee the investment of several billion dollars in public utility-related capital projects as part of this transition in the next several years.

The legislature acknowledges the budgetary difficulties faced by the State and its agencies, but finds that failure to adequately fund the staffing and reorganization of the public utilities commission and the division of consumer advocacy will have consequences beyond the current economic recession. Accordingly, the legislature finds that a vital and effective public utility regulatory program is essential to Hawaii's economic recovery. The public utilities commission regulates, and the division of consumer advocacy advocates for consumers with respect to, electric and telecommunications services worth between \$3,000,000,000 and \$4,000,000,000 annually. Analyses performed by

the Hawaii Energy Policy Forum indicate that the increased effectiveness of the public utilities commission and the division of consumer advocacy that would result from the reorganization approved in Act 177 and Act 183, Session Laws of Hawaii 2007, would reduce the annual utility expenses in the State's budget by more than the annual cost of fully funding the reorganization. The savings that would result from effective regulation and efficient allocation of public utility investments over the next several years would save Hawaii's economy over \$100,000,000 annually.

The legislature finds that the public utilities commission special fund contains sufficient moneys to adequately fund the public utilities commission and the division of consumer advocacy including all aspects of the reorganization required by Act 177 and Act 183, Session Laws of Hawaii 2007.

The purpose of this Act is to authorize sufficient funding for the operation and staffing of the public utilities commission and the department of commerce and consumer affairs' division of consumer advocacy to accomplish the objectives of those agencies and to complete the reorganization that was begun by Act 177 and Act 183, Session Laws of Hawaii 2007.

SECTION 2. There is appropriated out of the public utilities commission special fund the sum of \$1,704,000 or so much thereof as may be necessary for fiscal year 2010-2011 for the operations of the public utilities commission, including funding all positions included in the reorganization approved by Act 177, Session Laws of Hawaii 2007; including the reinstating and funding of the nine positions removed by Act 162, Session Laws of Hawaii 2009.

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

SECTION 3. (a) Other state and county agencies shall assist:

- (1) The public utilities commission, upon its request; and
- (2) The department of commerce and consumer affairs' division of consumer advocacy, upon its request,

in carrying out the provisions of this Act.

(b) The department of human resources development shall work cooperatively with:

- (1) The public utilities commission, as the commission deems necessary; and
- (2) The department of commerce and consumer affairs' division of consumer advocacy, as the division deems necessary,

in establishing and amending job descriptions in a timely manner.

SECTION 4. There is appropriated out of the compliance resolution fund the sum of \$634,000 or so much thereof as may be necessary for fiscal year 2010-2011 for the operations of the department of commerce and consumer affairs' division of consumer advocacy, including funding all positions included in the reorganization approved by Act 183, Session Laws of Hawaii 2007; reinstating and funding the positions removed in fiscal year 2009-2010; and necessary training for new and existing division personnel.

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

SECTION 5. This Act shall take effect on July 1, 2010.

(Approved May 21, 2010.)