
A BILL FOR AN ACT

RELATING TO IRRIGATION.

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

1 SECTION 1. Section 269-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "public utility" to read
3 as follows:

4 ""Public utility":

5 (1) Includes every person who may own, control, operate,
6 or manage as owner, lessee, trustee, receiver, or
7 otherwise, whether under a franchise, charter,
8 license, articles of association, or otherwise, any
9 plant or equipment, or any part thereof, directly or
10 indirectly for public use, for the transportation of
11 passengers or freight, or the conveyance or
12 transmission of telecommunications messages, or the
13 furnishing of facilities for the transmission of
14 intelligence by electricity by land or water or air
15 within the [~~State~~] state, or between points within
16 the [~~State~~] state, or for the production, conveyance,
17 transmission, delivery, or furnishing of light, power,
18 heat, cold, water, gas, or oil, or for the storage or



1 warehousing of goods, or the disposal of sewage;

2 provided that the term shall include:

3 (A) Any person insofar as that person owns or
4 operates a private sewer company or sewer
5 facility; and

6 (B) Any telecommunications carrier or
7 telecommunications common carrier;

8 and

9 (2) Shall not include:

10 (A) Any person insofar as that person owns or
11 operates an aerial transportation enterprise;

12 (B) Persons owning or operating taxicabs, as defined
13 in this section;

14 (C) Common carriers transporting only freight on the
15 public highways, unless operating within
16 localities or along routes or between points that
17 the public utilities commission finds to be
18 inadequately serviced without regulation under
19 this chapter;

20 (D) Persons engaged in the business of warehousing or
21 storage unless the commission finds that



1 regulation thereof is necessary in the public
2 interest;

3 (E) The business of any carrier by water to the
4 extent that the carrier enters into private
5 contracts for towage, salvage, hauling, or
6 carriage between points within the [~~State~~] state
7 and the carriage is not pursuant to either an
8 established schedule or an undertaking to perform
9 carriage services on behalf of the public
10 generally;

11 (F) The business of any carrier by water,
12 substantially engaged in interstate or foreign
13 commerce, transporting passengers on luxury
14 cruises between points within the [~~State~~] state
15 or on luxury round-trip cruises returning to the
16 point of departure;

17 (G) Any person who:
18 (i) Controls, operates, or manages plants or
19 facilities for the production, transmission,
20 or furnishing of power primarily or entirely
21 from nonfossil fuel sources; and



1 (ii) Provides, sells, or transmits all of that
2 power, except such power as is used in its
3 own internal operations, directly to a
4 public utility for transmission to the
5 public;

6 (H) A telecommunications provider only to the extent
7 determined by the commission pursuant to section
8 269-16.9;

9 (I) Any person who controls, operates, or manages
10 plants or facilities developed pursuant to
11 chapter 167 for conveying, distributing, and
12 transmitting water for irrigation and such other
13 purposes that shall be held for public use and
14 purpose;

15 (J) Any person who controls, operates, or manages
16 irrigation facilities for conveying,
17 distributing, and transmitting nonpotable water
18 for private nondomestic use;

19 [~~(J)~~] (K) Any person who owns, controls, operates, or
20 manages plants or facilities for the reclamation
21 of wastewater; provided that:



- 1 (i) The services of the facility shall be
2 provided pursuant to a service contract
3 between the person and a state or county
4 agency and at least ten per cent of the
5 wastewater processed is used directly by the
6 State or county which has entered into the
7 service contract;
- 8 (ii) The primary function of the facility shall
9 be the processing of secondary treated
10 wastewater that has been produced by a
11 municipal wastewater treatment facility that
12 is owned by a state or county agency;
- 13 (iii) The facility shall not make sales of water
14 to residential customers;
- 15 (iv) The facility may distribute and sell
16 recycled or reclaimed water to entities not
17 covered by a state or county service
18 contract; provided that, in the absence of
19 regulatory oversight and direct competition,
20 the distribution and sale of recycled or
21 reclaimed water shall be voluntary and its
22 pricing fair and reasonable. For purposes of



1 this subparagraph, "recycled water" and
2 "reclaimed water" mean treated wastewater
3 that by design is intended or used for a
4 beneficial purpose; and

5 (v) The facility shall not be engaged, either
6 directly or indirectly, in the processing of
7 food wastes; ~~and~~

8 and

9 ~~[(K)]~~ (L) Any person who owns, controls, operates, or
10 manages any seawater air conditioning district
11 cooling project; provided that at least fifty per
12 cent of the energy required for the seawater air
13 conditioning district cooling system is provided
14 by a renewable energy resource, such as cold,
15 deep seawater.

16 If the application of this chapter is ordered by the
17 commission in any case provided in [~~paragraphs (2) (C), (2) (D),~~
18 ~~(2) (H), and (2) (I),~~] paragraph 2 (C), (D), (H), and (I), the
19 business of any public utility that presents evidence of bona
20 fide operation on the date of the commencement of the
21 proceedings resulting in the order shall be presumed to be
22 necessary to public convenience and necessity, but any



1 certificate issued under this proviso shall nevertheless be
2 subject to such terms and conditions as the commission may
3 prescribe, as provided in sections 269-16.9 and 269-20."

4 SECTION 2. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act shall take effect on upon its
7 approval.

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INTRODUCED BY:

[Handwritten signatures and names]
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~~...~~
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JAN 18 2008



Report Title:

Irrigation Systems; Public Utilities

Description:

Exempts, from the purview of the Public Utilities Commission, any person who controls, operates, or manages irrigation facilities for transmitting nonpotable water for private, nondomestic use.

