
A BILL FOR AN ACT

RELATING TO ELECTRIC COOPERATIVES.

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

1 SECTION 1. Electric cooperatives are fundamentally
2 distinct from traditional electric utilities in terms of both
3 governance and organizational purpose. The typical investor-
4 owned utility is primarily driven by the incentive to increase
5 shareholder profitability, with virtually no influence on policy
6 or operations coming from the electricity customer. An electric
7 cooperative, on the other hand, is a customer-owned organization
8 operating on a not-for-profit basis under the governance of a
9 board of directors democratically elected by the very same
10 customers who receive the cooperative's services and who act in
11 their role as owners and members of the cooperative. Whereas a
12 natural tension exists between an investor-owned utility's
13 profit motive and the interest of its customers, the nature of
14 electric cooperatives provides multiple safeguards that ensure
15 that the everyday user receiving electricity services has a say
16 in determining whether that cooperative functions in the
17 interests of both the organization and the individual consumers.
18 Given these key distinctions between investor-owned utilities



1 and electric cooperatives, the legislature finds that the public
2 utilities commission and the department of commerce and consumer
3 affairs, division of consumer advocacy, should at all times
4 recognize these differences and consider the degree and extent
5 to which the State's utilities regulation laws, which typically
6 balance the tension between an investor-owned utility's profit
7 motive and the customer's interests, should be applied to
8 electric cooperatives. The legislature further finds that the
9 public utilities commission should have the flexibility and
10 discretion to determine the applicability of existing regulatory
11 requirements to electric cooperatives in furtherance of the
12 public interest. In doing so, the legislature provides,
13 however, that it is not the intent of this measure to exempt
14 electric cooperatives from statutory statewide clean energy
15 policy mandates such as the State's renewable portfolio
16 standards and energy efficiency portfolio standards.

17 The purpose of this Act is to specifically require the
18 public utilities commission and the division of consumer
19 advocacy to consider the ownership structure and interests of
20 electric cooperatives, and to authorize the public utilities
21 commission to waive or exempt electric cooperatives from the



1 provisions of chapter 269, Hawaii Revised Statutes, and other
2 regulatory requirements to the extent set forth in this Act.

3 SECTION 2. Section 269-1, Hawaii Revised Statutes, is
4 amended by adding a new definition to be appropriately inserted
5 and to read as follows:

6 "Electric cooperative" means a cooperative association or
7 entity that is:

- 8 (1) Owned by its members;
9 (2) Formed pursuant to the provisions of chapter 421C;
10 (3) Operated on a not-for-profit basis;
11 (4) Authorized pursuant to a legislatively granted
12 franchise or other legislative authority to
13 manufacture, sell, furnish, and supply electric light,
14 electric current, or electric power to its members or
15 a designated service area; and
16 (5) Governed by a board of directors who are members of
17 the electric cooperative and who are democratically
18 elected by members of the electric cooperative
19 pursuant to applicable bylaws."

20 SECTION 3. Section 269-31, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§269-31 Application of this chapter.** (a) This chapter
2 shall not apply to commerce with foreign nations, or commerce
3 with the several states of the United States, except insofar as
4 the same may be permitted under the Constitution and laws of the
5 United States; nor shall it apply to public utilities owned and
6 operated by the State, or any county, or other political
7 subdivision.

8 (b) Notwithstanding any provision of this chapter or any
9 franchise, charter, law, decision, order, or rule to the
10 contrary, the public utilities commission, sua sponte or upon
11 the application of an electric cooperative, may waive or exempt
12 an electric cooperative from any or all requirements of any
13 applicable franchise, charter, decision, order, or rule upon a
14 determination or demonstration that such requirement or
15 requirements should not be applied to an electric cooperative or
16 are otherwise unjust, unreasonable, or not in the public
17 interest.

18 (c) Notwithstanding subsections (a) and (b), the public
19 utilities commission and the consumer advocate shall at all
20 times consider the ownership structure and interests of an
21 electric cooperative in determining the scope and need for any



1 regulatory oversight or requirements over such electric
2 cooperative.

3 (d) To the extent that any other provision of this
4 chapter, or any franchise, charter, law, decision, order, or
5 rule is contrary to or otherwise conflicts with this section in
6 any manner, the provisions of this section shall govern and
7 apply."

8 SECTION 4. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Electric Cooperatives; Waiver; Exemption; Public Utilities
Commission; Division of Consumer Advocacy

Description:

Directs the Public Utilities Commission and the Division of
Consumer Advocacy to consider the ownership structure and
interests of an electric cooperative in determining appropriate
regulations. Authorizes the PUC to waive or exempt an electric
cooperative from certain regulations. (HB815 HD2)

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