

JAN 24 2013

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 - those laws that
6 typically balance the tension between an investor-owned
7 utility's profit motive and the interest of the customer -
8 should be applied to electric cooperatives. Further, the
9 legislature finds that the public utilities commission should
10 have the flexibility and discretion to determine the
11 applicability of existing regulatory requirements to electric
12 cooperatives in furtherance of the public interest.

13 The purpose of this Act is to specifically require the
14 public utilities commission and the division of consumer
15 advocacy to consider the ownership structure and interests of
16 electric cooperatives, and to authorize the public utilities
17 commission to waive or exempt electric cooperatives from the
18 provisions of chapter 269, Hawaii Revised Statutes, and other
19 regulatory requirements.

20 SECTION 2. Section 269-31, Hawaii Revised Statutes, is
21 amended to read as follows:

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

8 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 this
13 chapter or any applicable franchise, charter, decision, order,
14 rule, or other law upon a determination or demonstration that
15 such requirement or requirements should not be applied to an
16 electric cooperative or are otherwise unjust, unreasonable, or
17 not in the public interest. Notwithstanding the above, the
18 public utilities commission and the consumer advocate shall at
19 all times consider the ownership structure and interests of an
20 electric cooperative in determining the scope and need for any
21 regulatory oversight or requirements over such electric
22 cooperative. To the extent any other provision of this chapter,


1 or any franchise, charter, law, decision, order, or rule is
2 contrary to or otherwise conflicts with this section in any
3 manner, the provisions of this section shall govern and apply.

4 For purposes of this chapter, an "electric cooperative" is
5 a cooperative association or entity that is:

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

18 SECTION 3. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval.

20
21 INTRODUCED BY: 

22 BY REQUEST

S .B. NO. 1045

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 specifically consider the ownership structure and interests of an electric cooperative; and authorizes the Public Utilities Commission to waive or exempt an electric cooperative operating in the State from compliance with the provisions of chapter 269, Hawaii Revised Statutes, as well as any other applicable charters, franchises, rules, decisions, orders, or any other laws.

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

JUSTIFICATION SHEET

SB. NO. 1045

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO ELECTRIC COOPERATIVES.

PURPOSE: To (1) direct the Hawaii Public Utilities Commission ("Commission") and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs to specifically consider the ownership structure and interests of a not-for-profit, consumer-owned electric cooperative, and (2) authorize the Commission to waive or exempt a not-for-profit, consumer-owned electric cooperative from any and all requirements of chapter 269, Hawaii Revised Statutes, and all applicable franchises, charters, certificates, decisions, orders, rules, or other laws, upon a finding by the Commission that such requirements are unjust, unreasonable or are not in the public interest.

MEANS: Amend section 269-31, Hawaii Revised Statutes.

JUSTIFICATION: This measure will provide the Commission with adequate flexibility and discretion to streamline and ease the regulatory process and burden for an electric cooperative in the State. An electric cooperative is currently under the regulation of both federal and state agencies to a degree that can cause a wasteful duplication of compliance, regulatory, and oversight efforts. To the extent that an electric cooperative operates with the principal not-for-profit objective of promoting the service provided to its customer-owners, the streamlining of existing electric utility regulation for these types of entities should be appropriately reviewed and

considered by the Commission and the Division of Consumer Advocacy.

Impact on the public: The impact on the public will likely be neutral. Existing organizational safeguards of electric cooperatives ensure that customers are adequately protected.

Impact on the department and other agencies: Minimal impact is expected on the Department of Budget and Finance or other agencies within the administration. The Commission, together with input from the Division of Consumer Advocacy, will be tasked with considering the ownership structure and interests of an electric cooperative and the level to which existing regulatory provisions should be applied to an electric cooperative moving forward.

New Day Plan Association: This measure supports the achievement of the State's energy goals by potentially easing the regulatory burden and associated costs faced by a consumer-owned electric cooperative in the State, while still ensuring adequate regulatory oversight and consumer safeguards where necessary or appropriate.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: BUF 901.

OTHER AFFECTED AGENCIES: The Division of Consumer Advocacy within the Department of Commerce and Consumer Affairs.

EFFECTIVE DATE: Upon approval.