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# 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 division of consumer advocacy of  
3 the department of commerce and consumer affairs should at all  
4 times recognize these differences and consider the degree and  
5 extent to which the State's utilities regulation laws - those  
6 laws that typically balance the tension between an investor-  
7 owned 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. However,  
13 the legislature provides that this Act is not intended 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 269-31, Hawaii Revised Statutes, is  
4 amended to read as follows:

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

12 (b) Notwithstanding any provision of this chapter or any  
13 franchise, charter, law, decision, order, or rule to the  
14 contrary, the public utilities commission, sua sponte or upon  
15 the application of an electric cooperative, may waive or exempt  
16 an electric cooperative from any or all requirements of this  
17 chapter or any applicable franchise, charter, decision, order,  
18 rule, or other law upon a determination or demonstration that  
19 such requirement or requirements should not be applied to an  
20 electric cooperative or are otherwise unjust, unreasonable, or  
21 not in the public interest. Notwithstanding the above, the  
22 public utilities commission and the consumer advocate shall at



1 all times consider the ownership structure and interests of an  
2 electric cooperative in determining the scope and need for any  
3 regulatory oversight or requirements over such electric  
4 cooperative. To the extent any other provision of this chapter  
5 or any franchise, charter, law, decision, order, or rule is  
6 contrary to or otherwise conflicts with this section in any  
7 manner, the provisions of this section shall govern and apply.

8 The waiver or exemption provided in this subsection shall  
9 not hinder, restrict, or prevent the right of any customer,  
10 ratepayer of an electric cooperative, or qualifying facility, to  
11 file a complaint with the public utilities commission that the  
12 electric cooperative is not adequately serving the interests of  
13 its customers, members, or ratepayers.

14 (c) For purposes of this chapter, an "electric  
15 cooperative" is a cooperative association or entity that is:

- 16 (1) Owned by its members;  
17 (2) Formed pursuant to chapter 421C;  
18 (3) Operated on a not-for-profit basis;  
19 (4) Authorized pursuant to a legislatively granted  
20 franchise or other legislative authority to  
21 manufacture, sell, furnish, and supply electric light,



1           electric current, or electric power to its members or  
2           a designated service area; and  
3        (5) Governed by a board of directors who are members of  
4           the electric cooperative and who are democratically  
5           elected by members of the electric cooperative  
6           pursuant to applicable bylaws."

7        SECTION 3. New statutory material is underscored.

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



**Report Title:**

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

**Description:**

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. (SB1045 HD1)

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