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

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

22 SECTION 3. New statutory material is underscored.



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

2



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. 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. (SD1)

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