
A BILL FOR AN ACT

RELATING TO PUBLIC UTILITIES.

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, or between points within the State,
16 or for the production, conveyance, transmission,
17 delivery, or furnishing of light, power, heat, cold,
18 water, gas, or oil, or for the storage or warehousing



1 of goods, or the disposal of sewage; provided that the
2 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; and

8 (C) Any private owner of a water well from which
9 water is sold to parties other than the owner of
10 the well;

11 (2) Shall not include:

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

14 (B) Persons owning or operating taxicabs, as defined
15 in this section;

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



1 (D) Persons engaged in the business of warehousing or
2 storage unless the commission finds that
3 regulation thereof is necessary in the public
4 interest;

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

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

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



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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 owns, controls, operates, or
16 manages plants or facilities for the reclamation
17 of wastewater; provided that:

18 (i) The services of the facility shall be
19 provided pursuant to a service contract
20 between the person and a state or county
21 agency and at least ten per cent of the
22 wastewater processed is used directly by the



1 State or county which has entered into the
2 service contract;

3 (ii) The primary function of the facility shall
4 be the processing of secondary treated
5 wastewater that has been produced by a
6 municipal wastewater treatment facility that
7 is owned by a state or county agency;

8 (iii) The facility shall not make sales of water
9 to residential customers;

10 (iv) The facility may distribute and sell
11 recycled or reclaimed water to entities not
12 covered by a state or county service
13 contract; provided that, in the absence of
14 regulatory oversight and direct competition,
15 the distribution and sale of recycled or
16 reclaimed water shall be voluntary and its
17 pricing fair and reasonable. For purposes
18 of this subparagraph, "recycled water" and
19 "reclaimed water" mean treated wastewater
20 that by design is intended or used for a
21 beneficial purpose; and



1 (v) The facility shall not be engaged, either
2 directly or indirectly, in the processing of
3 food wastes; and

4 (K) Any person who owns, controls, operates, or
5 manages any seawater air conditioning district
6 cooling project; provided that at least fifty per
7 cent of the energy required for the seawater air
8 conditioning district cooling system is provided
9 by a renewable energy resource, such as cold,
10 deep seawater.

11 If the application of this chapter is ordered by the
12 commission in any case provided in paragraphs (2)(C), (2)(D),
13 (2)(H), and (2)(I), the business of any public utility that
14 presents evidence of bona fide operation on the date of the
15 commencement of the proceedings resulting in the order shall be
16 presumed to be necessary to public convenience and necessity,
17 but any certificate issued under this proviso shall nevertheless
18 be subject to such terms and conditions as the commission may
19 prescribe, as provided in sections 269-16.9 and 269-20."

20 SECTION 2. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

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1 SECTION 3. This Act shall take effect upon its approval.

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Report Title:

Public Utilities

Description:

Classifies privately owned water-wells as public utilities if water from those wells is sold to parties other than the owner.

