

ACT 102

S.B. NO. 995

A Bill for an Act Relating to the Utilization of Electricity Generated from Non-Fossil Fuels.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that electricity generated from the combustion of bagasse presently constitutes a substantial source of power in the State of Hawaii; that the combustion of non-fossil materials including bagasse, wood materials and combustible solid waste materials constitute a significant potential source of additional power available for public use; and that encouraging utilization of non-fossil fuel sources of energy offers advantages to the State that would:

(a) Promote an important reduction of State dependence upon imported petroleum products and other rapidly depleting fossil fuel sources, which consequently would reduce the State's vulnerability to economic dislocation and public inconvenience resulting from sudden or long-term unavailability of fossil fuels by reason of adverse action by foreign oil suppliers, shipping industry strikes, or exhaustion of fossil fuel supplies;

(b) Improve the State balance of payments posture by reducing purchases of fuel from extra-State sources and circulated into the State economy the funds expended for power generated from State fuel sources that otherwise would have entered other economies;

(c) Create jobs in the State by encouraging development of non-fossil fuel power production industry;

(d) Encourage utilization of alternative renewable fuel sources such as bagasse, wood materials and combustible solid waste materials, which currently are not being employed to their full potential;

(e) Promote expanded use of technology which presently exists and is being utilized currently by the State sugar industry in the generation of power from combustion of bagasse and which therefore does not require the research for development of technology or public financial assistance necessary for other non-fossil fuel energy alternatives such as solar, wind, geothermal and nuclear power, and which does not pose the degree of health, safety or environmental risks concomitant with nuclear power and transportation of fuel oil;

(f) Contribute to the viability of the State sugar industry by encouraging the sale and utilization of excess power generated from combustion of bagasse;

and

(g) Would not require installation of costly equipment or appliances by individual users as would be required for the utilization of solar energy.

SECTION 2. Section 269-1, Hawaii Revised Statutes, is amended to read:

"Sec. 269-1 Definitions. As used in this chapter:

"Public utility" means and includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telephone or telegraph messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the State, or between points within the State, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term (1) means and includes any person, insofar as such person owns or operates an aerial transportation enterprise as a common carrier; (2) means and includes any person, insofar as such person owns or operates a private sewer company or sewer facility; (3) shall not include persons owning or operating taxicabs, as defined herein; (4) shall not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points which the public utilities commission finds to be inadequately serviced without regulation under this chapter; (5) shall not include persons engaged in the business of warehousing or storage unless the commission finds that regulation thereof is necessary in the public interest; (6) shall not include the business of any carrier by water to the extent that such carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally, and also shall not include the business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure; and (7) shall not include any person who controls, operates or manages plants or facilities for production, transmission or furnishing of power primarily or entirely from non-fossil fuel sources for its internal uses but who also provides, sells or transmits the portion of such power not used for such purposes directly to a public utility for transmission to the public.

In the event the application of this chapter is ordered by the commission in any case provided in (3) and (4) the business of any public utility which presents evidence of bona fide operation on the date of the commencement of the proceedings resulting in the order shall be presumed to be necessary to public convenience and necessity, but any certificate issued under this proviso shall nevertheless be subject to such terms and conditions as the commission may prescribe, as provided in section 269-20.

"Taxicab" means and includes:

- (1) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely, the passenger

hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and

- (2) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be unloaded at any point between the terminals; and provided further, that this definition relating to motor vehicles operating between terminals shall pertain only to those motor vehicles whose operators or owners were duly licensed (under section 445-222 and any other applicable provision of law or ordinance) and doing business between such terminals on January 1, 1957.

"Public highways" has the meaning defined by section 264-1, including both state and county highways, but operation upon rails shall not be deemed transportation on public highways."

SECTION 3. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated to read:

"Sec. 269- Utilization of electricity generated from non-fossil fuels.

(a) The public utilities commission shall investigate and determine the extent to which electricity generated from non-fossil fuel sources is available to public utilities which supply electricity to the public, which electricity is in excess of that utilized or otherwise needed by the producers for their internal uses and which such producers are willing to make available to such public utilities.

(b) The public utilities commission may direct public utilities which supply electricity to the public to arrange for the acquisition of and to acquire such electricity generated from non-fossil fuel sources as is available from and which the producers of same are willing and able to make available to such public utilities, and to employ and dispatch such non-fossil fuel generated electricity in a manner consistent with the availability thereof to maximize the reduction in consumption of fossil fuels in the generation of electricity to be provided to the public.

(c) The rate payable by the public utility to the producer for such non-fossil fuel generated electricity supplied to the public utility shall be as agreed between the public utility and the supplier and as approved by the public utilities commission; provided, however, that in the event the public utility and the supplier fail to reach an agreement for such rate, such rate shall be as prescribed by the public utilities commission according to the powers and procedures provided in this chapter.

- (1) In the exercise of its authority to determine the just and reasonable rate for the non-fossil fuel generated electricity supplied to the public utility by the producer, the commission shall give due consideration, among other factors, to the costs that the public utility would incur in the supply of electricity, to the need in the public interest of adequate

and economical electric service by the public utility, and to the need of revenues sufficient to enable the producer of non-fossil fuel generated electricity to provide the electricity to the public utility.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 14, 1977.)

*Edited accordingly.