

ACT 77

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S.B. NO. 1897-80

A Bill for an Act Relating to Public Utilities.

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

SECTION 1. The legislature finds that commercial development of the State's renewable energy resources needs to be encouraged in order to reduce the State's dependency on fossil fuels. The legislature further finds that producers, other than public utilities, will be encouraged to produce electric energy from such renewable energy resources for sale to the public utilities if such producers are assured that they will not be considered public utilities under state law.

It is the purpose of this Act to promote the commercial development of such renewable energy resources by excluding certain producers of electric energy from renewable non-fossil, non-nuclear energy resources from the definition of the term "public utilities" under state law.

SECTION 2. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of "public utilities" to read as follows:

"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 which (a) controls, operates, or manages plants or facilities for production, transmission, or furnishing of power primarily or entirely from non-fossil fuel sources, and (b) provides, sells, or transmits all of such power, except such power as is used in its own internal operations, 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

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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.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.*

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

(Approved May 21, 1980.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.