

ACT 205

S.B. NO. 376

A Bill for an Act Relating to the Interisland Transmission System.

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

PART I

SECTION 1. The legislature finds that Act 165, Session Laws of Hawaii 2012, codified as part VIII of chapter 269, Hawaii Revised Statutes, established the regulatory structure under which interisland undersea transmission cables could be developed, financed, and constructed. However, the legislature notes that the current priorities of the legislature do not include an interisland transmission system. The legislature notes that it is more appropriate to remove references to the interisland transmission system from the Hawaii Revised Statutes until a consensus on such a system can be reached.

The purpose of this Act is to repeal chapter 269, part VIII, Hawaii Revised Statutes, relating to the interisland transmission system.

PART II

SECTION 2. Chapter 269, part VIII, Hawaii Revised Statutes, is repealed.

PART III

SECTION 3. Section 23-74, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) This section shall apply to the following:

- (1) Section 239-2, paragraph (5) of the definition of “gross income”—Gross income of home service providers of mobile telecommunications services;
- (2) Section 239-2, exclusions under the definition of “gross income”—Dividends paid by one member to another member of an affiliated public service company group or gross income from the sale or transfer of materials and supplies, interest on loans, and provision of services among members of an affiliated public service company group;
- (3) Section 237-3(b)—Gross receipts from the sale or transfer of materials and supplies, interest on loans, and provision of services among members of an affiliated public service company group;
- (4) Section 239-5.5—Gross income of utilities from monthly surcharges;

- ~~[(5)]~~ Section 239-5.6—Gross income of electric utility companies from eable surecharges;
- ~~[(6)]~~ (5) Section 239-6.5—Tax credit for lifeline telephone service subsidies;
- ~~[(7)]~~ (6) Section 269-172—Green infrastructure charges received by electric utilities;
- ~~[(8)]~~ (7) Section 237-29.7—Gross income or gross proceeds received by insurance companies;
- ~~[(9)]~~ (8) Section 431:7-207—Tax credit to facilitate regulatory oversight;
- ~~[(10)]~~ (9) Section 432:1-403—Exemption for nonprofit medical indemnity or hospital service associations or societies specifically from the general excise tax, public service company tax, or insurance premium tax; and
- ~~[(11)]~~ (10) Section 432:2-503—Exemption for fraternal benefit societies specifically from the general excise tax, public service company tax, or insurance premium tax.”

SECTION 4. Section 235-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be excluded from gross income, adjusted gross income, and taxable income:

- (1) Income not subject to taxation by the State under the Constitution and laws of the United States;
- (2) Rights, benefits, and other income exempted from taxation by section 88-91, having to do with the state retirement system, and the rights, benefits, and other income, comparable to the rights, benefits, and other income exempted by section 88-91, under any other public retirement system;
- (3) Any compensation received in the form of a pension for past services;
- (4) Compensation paid to a patient affected with Hansen’s disease employed by the State or the United States in any hospital, settlement, or place for the treatment of Hansen’s disease;
- (5) Except as otherwise expressly provided, payments made by the United States or this State, under an act of Congress or a law of this State, which by express provision or administrative regulation or interpretation are exempt from both the normal and surtaxes of the United States, even though not so exempted by the Internal Revenue Code itself;
- (6) Any income expressly exempted or excluded from the measure of the tax imposed by this chapter by any other law of the State, it being the intent of this chapter not to repeal or supersede any express exemption or exclusion;
- (7) Income received by each member of the reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States of America, and the Hawaii National Guard as compensation for performance of duty, equivalent to pay received for forty-eight drills (equivalent of twelve weekends) and fifteen days of annual duty, at an:
 - (A) E-1 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2004;

- (B) E-2 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2005;
 - (C) E-3 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2006;
 - (D) E-4 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2007; and
 - (E) E-5 pay grade after eight years of service; provided that this subparagraph shall apply to taxable years beginning after December 31, 2008;
- (8) Income derived from the operation of ships or aircraft if the income is exempt under the Internal Revenue Code pursuant to the provisions of an income tax treaty or agreement entered into by and between the United States and a foreign country; provided that the tax laws of the local governments of that country reciprocally exempt from the application of all of their net income taxes, the income derived from the operation of ships or aircraft that are documented or registered under the laws of the United States;
 - (9) The value of legal services provided by a legal service plan to a taxpayer, the taxpayer's spouse, and the taxpayer's dependents;
 - (10) Amounts paid, directly or indirectly, by a legal service plan to a taxpayer as payment or reimbursement for the provision of legal services to the taxpayer, the taxpayer's spouse, and the taxpayer's dependents;
 - (11) Contributions by an employer to a legal service plan for compensation (through insurance or otherwise) to the employer's employees for the costs of legal services incurred by the employer's employees, their spouses, and their dependents;
 - (12) Amounts received in the form of a monthly surcharge by a utility acting on behalf of an affected utility under section 269-16.3; provided that amounts retained by the acting utility for collection or other costs shall not be included in this exemption;
 - ~~[(13) Amounts received in the form of a cable surcharge by an electric utility company acting on behalf of a certified cable company under section 269-134; provided that any amounts retained by that electric utility company for collection or other costs shall not be included in this exemption;] and~~
 - ~~[(14) (13) One hundred per cent of the gain realized by a fee simple owner from the sale of a leased fee interest in units within a condominium project, cooperative project, or planned unit development to the association of owners under chapter 514A or 514B, or the residential cooperative corporation of the leasehold units.~~

For purposes of this paragraph:

"Fee simple owner" shall have the same meaning as provided under section 516-1; provided that it shall include legal and equitable owners;

"Legal and equitable owner", and "leased fee interest" shall have the same meanings as provided under section 516-1; and

"Condominium project" and "cooperative project" shall have the same meanings as provided under section 514C-1."

SECTION 5. Section 269-30, Hawaii Revised Statutes, is amended to read as follows:

“**§269-30 Finances; public utility fee.** (a) Sections 607-5 to 607-9 shall apply to the public utilities commission and each commissioner, as well as to the supreme and circuit courts, and all costs and fees paid or collected pursuant to this section shall be deposited with the director of finance to the credit of the public utilities commission special fund established under section 269-33.

(b) There also shall be paid to the public utilities commission in each of the months of July and December of each year, by each public utility subject to investigation by the public utilities commission, a fee equal to one-fourth of one per cent of the gross income from the public utility’s business during the preceding year, or the sum of \$30, whichever is greater. This fee shall be deposited with the director of finance to the credit of the public utilities commission special fund.

(c) Each public utility paying a fee under subsection (b) may impose a surcharge to recover the amount paid above one-eighth of one per cent of gross income. The surcharge imposed shall not be subject to the notice, hearing, and approval requirements of this chapter; provided that the surcharge may be imposed by the utility only after thirty days’ notice to the public utilities commission. Unless ordered by the public utilities commission, the surcharge shall be imposed only until the conclusion of the public utility’s next rate case; provided that the surcharge shall be subject to refund with interest at the public utility’s authorized rate of return on rate base if the utility collects more money from the surcharge than actually paid due to the increase in the fee to one-fourth of one per cent.

(d) Notwithstanding any provision of this chapter to the contrary, the public utilities commission may, upon the filing of a petition by a public utility, credit a public utility for amounts paid under subsection (b) toward amounts the public utility owes in one call center fees under section 269E-6(f).

~~“(e) Amounts received in the form of a cable surcharge by an electric utility company acting on behalf of a certified cable company under section 269-134 shall not be deemed gross income for that electric utility company for purposes of this section; provided that any amounts retained by that electric utility company for collection or other costs shall not be included in this exemption.”~~

SECTION 6. Section 239-5.6, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 240-1.6, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 269-133, Hawaii Revised Statutes, is repealed.

SECTION 9. Act 165, Session Laws of Hawaii 2012, is amended by amending section 9 to read as follows:

“SECTION 9. This Act shall take effect on July 1, 2012; provided that the ~~[amendments]~~ amendment made to section ~~[235-7,]~~ 235-7(a)(12), Hawaii Revised Statutes, in section 5 of this Act shall not be repealed when that section is reenacted on January 1, ~~[2013,]~~ 2018, pursuant to Act 166, Session Laws of Hawaii 2007[-], as amended by section 5 of Act 220, Session Laws of Hawaii 2012.”

PART IV

SECTION 10. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Became law on July 11, 2017, without the governor’s signature, pursuant to Art. III, §16, State Constitution.)

Note

1. Edited pursuant to HRS §23G-16.5.