

JAN 25 2023

A BILL FOR AN ACT

RELATING TO ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that despite its goal to
2 achieve a one hundred per cent renewable energy portfolio
3 standard by 2045, the State continues to depend heavily upon
4 imported petroleum for its energy needs, using approximately the
5 same amount of fossil fuel for electricity generation in 2020 as
6 2010, falling short of its ambitious renewable energy goals.

7 The legislature further finds that the production of clean
8 electricity may be encouraged if state facilities, as producers
9 and sellers of clean electricity, are allowed to engage in
10 intragovernmental wheeling. Wheeling occurs when electric power
11 is transmitted from one generator of renewable energy to users
12 of renewable energy over the existing transmission lines of a
13 third-party electric public utility. Through wheeling, users of
14 renewable energy, specifically state facilities, could acquire
15 clean electricity generated by another state facility and
16 transmitted through utility lines owned and maintained by an
17 existing electric utility to other state agencies.



1 Accordingly, the purpose of this Act is to authorize state
2 facilities to wheel electricity that is produced from renewable
3 energy sources to other state facilities, pursuant to
4 administrative rules established by the public utilities
5 commission.

6 SECTION 2. Chapter 269, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§269- Wheeling; renewable energy; state facility;
10 rules. (a) A state facility may engage in wheeling of
11 electricity produced at its own facility from renewable sources.

12 (b) No later than December 31, 2024, the public utilities
13 commission shall establish, by rule or order, policies and
14 procedures to implement wheeling, pursuant to subsection (a).

15 (c) The public utilities commission shall evaluate the
16 need to adopt customer protection measures and may disallow a
17 wheeling project if the commission determines that the project
18 is:

19 (1) Detrimental to the safe and reliable operation of an
20 electric grid;



1 (2) Detrimental to other customers, including whether
2 other customers would be required to subsidize the
3 wheeling agreement; or

4 (3) Not in the public interest.

5 (d) For the purposes of this section, "wheeling" means the
6 transmission of electric power from one state facility's point
7 of generation to the facilities of other state agencies over the
8 existing transmission lines of a third-party electric public
9 utility."

10 SECTION 3. Section 269-1, Hawaii Revised Statutes, is
11 amended by amending the definition of "public utility" to read
12 as follows:

13 ""Public utility":

14 (1) Includes every person who may own, control, operate,
15 or manage as owner, lessee, trustee, receiver, or
16 otherwise, whether under a franchise, charter,
17 license, articles of association, or otherwise, any
18 plant or equipment, or any part thereof, directly or
19 indirectly for public use for the transportation of
20 passengers or freight; for the conveyance or
21 transmission of telecommunications messages; for the



1 furnishing of facilities for the transmission of
2 intelligence by electricity within the State or
3 between points within the State by land, water, or
4 air; for the production, conveyance, transmission,
5 delivery, or furnishing of light, power, heat, cold,
6 water, gas, or oil; for the storage or warehousing of
7 goods; or for the disposal of sewage; provided that
8 the term shall include:

9 (A) An owner or operator of a private sewer company
10 or sewer facility; and

11 (B) A telecommunications carrier or
12 telecommunications common carrier; and

13 (2) Shall not include:

14 (A) An owner or operator of an aerial transportation
15 enterprise;

16 (B) An owner or operator of a taxicab as defined in
17 this section;

18 (C) Common carriers that transport only freight on
19 the public highways, unless operating within
20 localities, along routes, or between points that
21 the public utilities commission finds to be



1 inadequately serviced without regulation under
2 this chapter;

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

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

14 (F) A carrier by water, substantially engaged in
15 interstate or foreign commerce, that transports
16 passengers on luxury cruises between points
17 within the State or on luxury round-trip cruises
18 returning to the point of departure;

19 (G) Any user, owner, or operator of the Hawaii
20 electric system as defined under section 269-141;



- 1 (H) A telecommunications provider only to the extent
- 2 determined by the public utilities commission
- 3 pursuant to section 269-16.9;
- 4 (I) Any person who controls, operates, or manages
- 5 plants or facilities developed pursuant to
- 6 chapter 167 for conveying, distributing, and
- 7 transmitting water for irrigation and other
- 8 purposes for public use and purpose;
- 9 (J) Any person who owns, controls, operates, or
- 10 manages plants or facilities for the reclamation
- 11 of wastewater; provided that:
- 12 (i) The services of the facility are provided
- 13 pursuant to a service contract between the
- 14 person and a state or county agency and at
- 15 least ten per cent of the wastewater
- 16 processed is used directly by the state or
- 17 county agency that entered into the service
- 18 contract;
- 19 (ii) The primary function of the facility is the
- 20 processing of secondary treated wastewater
- 21 that has been produced by a municipal



- 1 wastewater treatment facility owned by a
2 state or county agency;
- 3 (iii) The facility does not make sales of water to
4 residential customers;
- 5 (iv) The facility may distribute and sell
6 recycled or reclaimed water to entities not
7 covered by a state or county service
8 contract; provided that, in the absence of
9 regulatory oversight and direct competition,
10 the distribution and sale of recycled or
11 reclaimed water shall be voluntary and its
12 pricing fair and reasonable. For purposes
13 of this subparagraph, "recycled water" and
14 "reclaimed water" means treated wastewater
15 that by design is intended or used for a
16 beneficial purpose; and
- 17 (v) The facility is not engaged, either directly
18 or indirectly, in the processing of food
19 wastes;
- 20 (K) Any person who owns, controls, operates, or
21 manages any seawater air conditioning district



1 cooling project; provided that at least fifty per
2 cent of the energy required for the seawater air
3 conditioning district cooling system is provided
4 by a renewable energy resource, such as cold,
5 deep seawater;

6 (L) Any person who owns, controls, operates, or
7 manages plants or facilities primarily used to
8 charge or discharge a vehicle battery that
9 provides power for vehicle propulsion;

10 (M) Any person who:

11 (i) Owns, controls, operates, or manages a
12 renewable energy system that is located on a
13 customer's property; and

14 (ii) Provides, sells, or transmits the power
15 generated from that renewable energy system
16 to an electric utility or to the customer on
17 whose property the renewable energy system
18 is located; provided that, for purposes of
19 this subparagraph, a customer's property
20 shall include all contiguous property owned
21 or leased by the customer without regard to



1 interruptions in contiguity caused by
2 easements, public thoroughfares,
3 transportation rights-of-way, and utility
4 rights-of-way; and

5 (N) Any person who owns, controls, operates, or
6 manages a renewable energy system that is located
7 on [~~such~~] the person's property and provides,
8 sells, or transmits the power generated from that
9 renewable energy system to an electric utility or
10 to lessees or tenants on the person's property
11 where the renewable energy system is located;
12 provided that:

13 (i) An interconnection, as defined in section
14 269-141, is maintained with an electric
15 public utility to preserve the lessees' or
16 tenants' ability to be served by an electric
17 utility;

18 (ii) [~~Such~~] The person does not use an electric
19 public utility's transmission or
20 distribution lines to provide, sell, or
21 transmit electricity to lessees or tenants;



- 1 (iii) At the time that the lease agreement is
2 signed, the rate charged to the lessee or
3 tenant for the power generated by the
4 renewable energy system shall be no greater
5 than the effective rate charged per kilowatt
6 hour from the applicable electric utility
7 schedule filed with the public utilities
8 commission;
- 9 (iv) The rate schedule or formula shall be
10 established for the duration of the lease,
11 and the lease agreement entered into by the
12 lessee or tenant shall reflect [~~such~~] the
13 rate schedule or formula;
- 14 (v) The lease agreement shall not abrogate any
15 terms or conditions of applicable tariffs
16 for termination of services for nonpayment
17 of electric utility services or rules
18 regarding health, safety, and welfare; and
- 19 (vi) The lease agreement shall disclose: (1) the
20 rate schedule or formula for the duration of
21 the lease agreement; (2) that, at the time



1 that the lease agreement is signed, the rate
2 charged to the lessee or tenant for the
3 power generated by the renewable energy
4 system shall be no greater than the
5 effective rate charged per kilowatt hour
6 from the applicable electric utility
7 schedule filed with the public utilities
8 commission; (3) that the lease agreement
9 shall not abrogate any terms or conditions
10 of applicable tariffs for termination of
11 services for nonpayment of electric utility
12 services or rules regarding health, safety,
13 and welfare; and (4) whether the lease is
14 contingent upon the purchase of electricity
15 from the renewable energy system; provided
16 further that any disputes concerning the
17 requirements of this provision shall be
18 resolved pursuant to the provisions of the
19 lease agreement or chapter 521, if
20 applicable [~~;~~ and



1 ~~(vii) Nothing in this section shall be construed~~
2 ~~to permit wheeling].~~

3 If the application of this chapter is ordered by the
4 commission in any case provided in paragraph (2)(C), (D), (H),
5 and (I), the business of any public utility that presents
6 evidence of bona fide operation on the date of the commencement
7 of the proceedings resulting in the order shall be presumed to
8 be necessary to the public convenience and necessity, but any
9 certificate issued under this proviso shall nevertheless be
10 subject to terms and conditions as the public utilities
11 commission may prescribe, as provided in sections 269-16.9 and
12 269-20."

13 SECTION 4. The public utilities commission shall submit a
14 report of its findings and recommendations on wheeling as
15 authorized pursuant to this Act, including any proposed
16 legislation, to the legislature no later than twenty days prior
17 to the convening of the regular session of 2025.

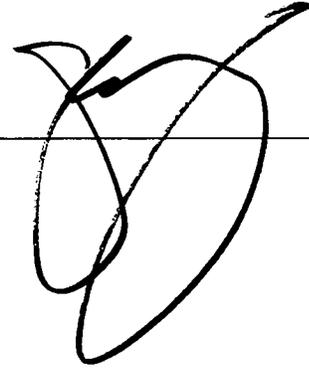
18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval.

2

INTRODUCED BY: _____

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S.B. NO. 1233

Report Title:

Public Utilities Commission; State Facilities; Wheeling;
Renewable Energy; Clean Electricity

Description:

Authorizes state facilities to wheel electricity that is produced by their own facility from renewable energy sources to another state facility pursuant to administrative rules established by the Public Utilities Commission. Requires a report by the Public Utilities Commission.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

