

JAN 20 2022

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 because of its goal
2 to achieve one hundred per cent renewable energy by 2045, Hawaii
3 now leads other states in nearly every category of renewable
4 energy. Notwithstanding such progress, the State continues to
5 depend heavily upon imported petroleum for its energy needs,
6 using approximately the same amount of fossil fuel for
7 electricity generation in 2020 as 2010, falling short of its
8 ambitious renewable energy goals.

9 The legislature further finds that the production of clean
10 electricity may be encouraged if independent generators of clean
11 electricity can engage in retail wheeling. Retail wheeling
12 occurs when electric power is transmitted from one independent
13 generator of renewable energy to users of renewable energy over
14 the existing transmission lines of a third-party electric public
15 utility. Through retail wheeling, users of renewable energy,
16 including the State and the counties, could acquire clean
17 electricity by purchasing it from a clean electricity project



1 developer, then transmitting the clean electricity across
2 utility lines owned and maintained by a third-party electric
3 public utility, while fairly compensating the third-party
4 utility for utilizing its existing infrastructure.

5 The purpose of this Act is to authorize independent
6 generators of renewable energy to wheel the renewable
7 electricity they produce under administrative rules established
8 by the public utilities commission.

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

12 "§269- Retail wheeling; renewable energy; rules. (a)
13 Independent renewable energy generators may engage in retail
14 wheeling the renewable electricity produced at its own
15 facilities.

16 (b) No later than December 31, 2022, the public utilities
17 commission shall establish any necessary rules, pursuant to
18 chapter 91, to implement retail wheeling, including any
19 appropriate rate to charge the clean electricity project
20 developer, independent renewable energy generator, or user of
21 renewable energy for retail wheeling.



1 (c) The public utilities commission shall submit a report
2 of its findings and recommendations on retail wheeling,
3 including any proposed legislation, to the legislature no later
4 than twenty days prior to the convening of the regular session
5 of 2023.

6 (d) For the purposes of this section, "retail wheeling"
7 means the transmission of electric power from an independent
8 renewable energy generators' point of generation over existing
9 transmission lines, distribution lines, and other facilities of
10 a third-party electric public utility to the facilities of an
11 user of renewable energy."

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

15 ""Public utility":

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



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

11 (A) An owner or operator of a private sewer company
12 or sewer facility; and

13 (B) A telecommunications carrier or
14 telecommunications common carrier; and

15 (2) Shall not include:

16 (A) An owner or operator of an aerial transportation
17 enterprise;

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

20 (C) Common carriers that transport only freight on
21 the public highways, unless operating within



1 localities, along routes, or between points that
2 the public utilities commission finds to be
3 inadequately serviced without regulation under
4 this chapter;

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

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

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



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- 1 (G) Any user, owner, or operator of the Hawaii
2 electric system as defined under section 269-141;
- 3 (H) A telecommunications provider only to the extent
4 determined by the public utilities commission
5 pursuant to section 269-16.9;
- 6 (I) Any person who controls, operates, or manages
7 plants or facilities developed pursuant to
8 chapter 167 for conveying, distributing, and
9 transmitting water for irrigation and other
10 purposes for public use and purpose;
- 11 (J) Any person who owns, controls, operates, or
12 manages plants or facilities for the reclamation
13 of wastewater; provided that:
- 14 (i) The services of the facility are provided
15 pursuant to a service contract between the
16 person and a state or county agency and at
17 least ten per cent of the wastewater
18 processed is used directly by the state or
19 county agency that entered into the service
20 contract;



- 1 (ii) The primary function of the facility is the
2 processing of secondary treated wastewater
3 that has been produced by a municipal
4 wastewater treatment facility owned by a
5 state or county agency;
- 6 (iii) The facility does not make sales of water to
7 residential customers;
- 8 (iv) The facility may distribute and sell
9 recycled or reclaimed water to entities not
10 covered by a state or county service
11 contract; provided that, in the absence of
12 regulatory oversight and direct competition,
13 the distribution and sale of recycled or
14 reclaimed water shall be voluntary and its
15 pricing fair and reasonable. For purposes
16 of this subparagraph, "recycled water" and
17 "reclaimed water" means treated wastewater
18 that by design is intended or used for a
19 beneficial purpose; and



- 1 (v) The facility is not engaged, either directly
2 or indirectly, in the processing of food
3 wastes;
- 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 (L) Any person who owns, controls, operates, or
12 manages plants or facilities primarily used to
13 charge or discharge a vehicle battery that
14 provides power for vehicle propulsion;
- 15 (M) Any person who:
- 16 (i) Owns, controls, operates, or manages a
17 renewable energy system that is located on a
18 customer's property; and
- 19 (ii) Provides, sells, or transmits the power
20 generated from that renewable energy system
21 to an electric utility or to the customer on



1 whose property the renewable energy system
2 is located; provided that, for purposes of
3 this subparagraph, a customer's property
4 shall include all contiguous property owned
5 or leased by the customer without regard to
6 interruptions in contiguity caused by
7 easements, public thoroughfares,
8 transportation rights-of-way, and utility
9 rights-of-way; and

10 (N) Any person who owns, controls, operates, or
11 manages a renewable energy system that is located
12 on such person's property and provides, sells, or
13 transmits the power generated from that renewable
14 energy system to an electric utility or to
15 lessees or tenants on the person's property where
16 the renewable energy system is located; provided
17 that:

18 (i) An interconnection, as defined in section
19 269-141, is maintained with an electric
20 public utility to preserve the lessees' or



- 1 tenants' ability to be served by an electric
2 utility;
- 3 (ii) Such person does not use an electric public
4 utility's transmission or distribution lines
5 to provide, sell, or transmit electricity to
6 lessees or tenants;
- 7 (iii) At the time that the lease agreement is
8 signed, the rate charged to the lessee or
9 tenant for the power generated by the
10 renewable energy system shall be no greater
11 than the effective rate charged per kilowatt
12 hour from the applicable electric utility
13 schedule filed with the public utilities
14 commission;
- 15 (iv) The rate schedule or formula shall be
16 established for the duration of the lease,
17 and the lease agreement entered into by the
18 lessee or tenant shall reflect such rate
19 schedule or formula;
- 20 (v) The lease agreement shall not abrogate any
21 terms or conditions of applicable tariffs



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



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1 further that any disputes concerning the
2 requirements of this provision shall be
3 resolved pursuant to the provisions of the
4 lease agreement or chapter 521, if
5 applicable [~~and~~

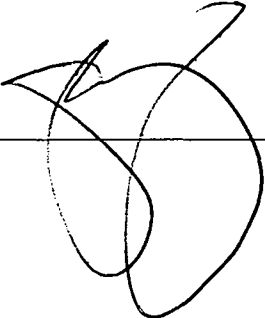
6 ~~(vii) Nothing in this section shall be construed~~
7 ~~to permit wheeling]."~~

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

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

11

INTRODUCED BY: _____



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Report Title:

Public Utilities Commission; Retail Wheeling; Renewable Energy;
Clean Electricity

Description:

Authorizes independent generators of renewable energy to wheel the renewable electricity they produce to users of renewable energy under administrative rules established by the Public Utilities Commission.

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