

---

---

# 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 one hundred per cent renewable energy by 2045, the State  
3 continues to depend heavily upon imported petroleum for its  
4 energy needs, using approximately the same amount of fossil fuel  
5 for electricity generation in 2020 as 2010, falling short of its  
6 ambitious renewable energy goals.

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



1 public utility, while fairly compensating the third-party  
2 utility for utilizing its existing infrastructure.

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

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

10 "§269- Retail wheeling; renewable energy; rules. (a)  
11 Independent renewable energy generators may engage in retail  
12 wheeling the renewable electricity produced at its own  
13 facilities.

14 (b) No later than December 31, 2023, the public utilities  
15 commission shall establish, by rule or order, policies and  
16 procedures to implement retail wheeling, including any  
17 appropriate rate to charge the renewable electricity project  
18 developer, independent renewable energy generator, or user of  
19 renewable energy for retail wheeling.

20 (c) The public utilities commission shall submit a report  
21 of its findings and recommendations on retail wheeling,



1 including any proposed legislation, to the legislature no later  
2 than twenty days prior to the convening of the regular session  
3 of 2024.

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

10 (e) The public utilities commission shall evaluate the  
11 need to adopt customer protection measures and may disallow a  
12 wheeling project if the commission determines that the project  
13 is:

- 14 (1) Detrimental to the safe and reliable operation of an  
15 electric grid;
- 16 (2) Detrimental to other customers, such as if other  
17 customers might be required to subsidize the wheeling  
18 agreement; or
- 19 (3) Not in the public interest."



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

4 "Public utility":

5 (1) Includes every person who may own, control, operate,  
6 or manage as owner, lessee, trustee, receiver, or  
7 otherwise, whether under a franchise, charter,  
8 license, articles of association, or otherwise, any  
9 plant or equipment, or any part thereof, directly or  
10 indirectly for public use for the transportation of  
11 passengers or freight; for the conveyance or  
12 transmission of telecommunications messages; for the  
13 furnishing of facilities for the transmission of  
14 intelligence by electricity within the State or  
15 between points within the State by land, water, or  
16 air; for the production, conveyance, transmission,  
17 delivery, or furnishing of light, power, heat, cold,  
18 water, gas, or oil; for the storage or warehousing of  
19 goods; or for the disposal of sewage; provided that  
20 the term shall include:



- 1 (A) An owner or operator of a private sewer company
- 2 or sewer facility; and
- 3 (B) A telecommunications carrier or
- 4 telecommunications common carrier; and
- 5 (2) Shall not include:
- 6 (A) An owner or operator of an aerial transportation
- 7 enterprise;
- 8 (B) An owner or operator of a taxicab as defined in
- 9 this section;
- 10 (C) Common carriers that transport only freight on
- 11 the public highways, unless operating within
- 12 localities, along routes, or between points that
- 13 the public utilities commission finds to be
- 14 inadequately serviced without regulation under
- 15 this chapter;
- 16 (D) Persons engaged in the business of warehousing or
- 17 storage unless the commission finds that
- 18 regulation is necessary in the public interest;
- 19 (E) A carrier by water to the extent that the carrier
- 20 enters into private contracts for towage,
- 21 salvage, hauling, or carriage between points



1 within the State; provided that the towing,  
2 salvage, hauling, or carriage is not pursuant to  
3 either an established schedule or an undertaking  
4 to perform carriage services on behalf of the  
5 public generally;

6 (F) A carrier by water, substantially engaged in  
7 interstate or foreign commerce, that transports  
8 passengers on luxury cruises between points  
9 within the State or on luxury round-trip cruises  
10 returning to the point of departure;

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

13 (H) A telecommunications provider only to the extent  
14 determined by the public utilities commission  
15 pursuant to section 269-16.9;

16 (I) Any person who controls, operates, or manages  
17 plants or facilities developed pursuant to  
18 chapter 167 for conveying, distributing, and  
19 transmitting water for irrigation and other  
20 purposes for public use and purpose;



- 1 (J) Any person who owns, controls, operates, or
- 2 manages plants or facilities for the reclamation
- 3 of wastewater; provided that:
  - 4 (i) The services of the facility are provided
  - 5 pursuant to a service contract between the
  - 6 person and a state or county agency and at
  - 7 least ten per cent of the wastewater
  - 8 processed is used directly by the state or
  - 9 county agency that entered into the service
  - 10 contract;
  - 11 (ii) The primary function of the facility is the
  - 12 processing of secondary treated wastewater
  - 13 that has been produced by a municipal
  - 14 wastewater treatment facility owned by a
  - 15 state or county agency;
  - 16 (iii) The facility does not make sales of water to
  - 17 residential customers;
  - 18 (iv) The facility may distribute and sell
  - 19 recycled or reclaimed water to entities not
  - 20 covered by a state or county service
  - 21 contract; provided that, in the absence of



1 regulatory oversight and direct competition,  
2 the distribution and sale of recycled or  
3 reclaimed water shall be voluntary and its  
4 pricing fair and reasonable. For purposes  
5 of this subparagraph, "recycled water" and  
6 "reclaimed water" means treated wastewater  
7 that by design is intended or used for a  
8 beneficial purpose; and

9 (v) The facility is not engaged, either directly  
10 or indirectly, in the processing of food  
11 wastes;

12 (K) Any person who owns, controls, operates, or  
13 manages any seawater air conditioning district  
14 cooling project; provided that at least fifty per  
15 cent of the energy required for the seawater air  
16 conditioning district cooling system is provided  
17 by a renewable energy resource, such as cold,  
18 deep seawater;

19 (L) Any person who owns, controls, operates, or  
20 manages plants or facilities primarily used to





1 charge or discharge a vehicle battery that  
2 provides power for vehicle propulsion;

3 (M) Any person who:

4 (i) Owns, controls, operates, or manages a  
5 renewable energy system that is located on a  
6 customer's property; and

7 (ii) Provides, sells, or transmits the power  
8 generated from that renewable energy system  
9 to an electric utility or to the customer on  
10 whose property the renewable energy system  
11 is located; provided that, for purposes of  
12 this subparagraph, a customer's property  
13 shall include all contiguous property owned  
14 or leased by the customer without regard to  
15 interruptions in contiguity caused by  
16 easements, public thoroughfares,  
17 transportation rights-of-way, and utility  
18 rights-of-way; and

19 (N) Any person who owns, controls, operates, or  
20 manages a renewable energy system that is located  
21 on [~~such~~] the person's property and provides,



1 sells, or transmits the power generated from that  
2 renewable energy system to an electric utility or  
3 to lessees or tenants on the person's property  
4 where the renewable energy system is located;  
5 provided that:

6 (i) An interconnection, as defined in section  
7 269-141, is maintained with an electric  
8 public utility to preserve the lessees' or  
9 tenants' ability to be served by an electric  
10 utility;

11 (ii) [~~Such~~] The person does not use an electric  
12 public utility's transmission or  
13 distribution lines to provide, sell, or  
14 transmit electricity to lessees or tenants;

15 (iii) At the time that the lease agreement is  
16 signed, the rate charged to the lessee or  
17 tenant for the power generated by the  
18 renewable energy system shall be no greater  
19 than the effective rate charged per kilowatt  
20 hour from the applicable electric utility



1 schedule filed with the public utilities  
2 commission;

3 (iv) The rate schedule or formula shall be  
4 established for the duration of the lease,  
5 and the lease agreement entered into by the  
6 lessee or tenant shall reflect such rate  
7 schedule or formula;

8 (v) The lease agreement shall not abrogate any  
9 terms or conditions of applicable tariffs  
10 for termination of services for nonpayment  
11 of electric utility services or rules  
12 regarding health, safety, and welfare; and

13 (vi) The lease agreement shall disclose: (1) the  
14 rate schedule or formula for the duration of  
15 the lease agreement; (2) that, at the time  
16 that the lease agreement is signed, the rate  
17 charged to the lessee or tenant for the  
18 power generated by the renewable energy  
19 system shall be no greater than the  
20 effective rate charged per kilowatt hour  
21 from the applicable electric utility



1 schedule filed with the public utilities  
2 commission; (3) that the lease agreement  
3 shall not abrogate any terms or conditions  
4 of applicable tariffs for termination of  
5 services for nonpayment of electric utility  
6 services or rules regarding health, safety,  
7 and welfare; and (4) whether the lease is  
8 contingent upon the purchase of electricity  
9 from the renewable energy system; provided  
10 further that any disputes concerning the  
11 requirements of this provision shall be  
12 resolved pursuant to the provisions of the  
13 lease agreement or chapter 521, if  
14 applicable[, and

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

17 If the application of this chapter is ordered by the  
18 commission in any case provided in paragraph (2)(C), (D), (H),  
19 and (I), the business of any public utility that presents  
20 evidence of bona fide operation on the date of the commencement  
21 of the proceedings resulting in the order shall be presumed to



1 be necessary to the public convenience and necessity, but any  
2 certificate issued under this proviso shall nevertheless be  
3 subject to terms and conditions as the public utilities  
4 commission may prescribe, as provided in sections 269-16.9 and  
5 269-20."

6 SECTION 4. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

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



**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. (SD1)

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

