
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. The legislature finds that the development of
2 renewable energy systems is critical to eliminating the State's
3 dependence on imported fossil fuels and reducing carbon
4 emissions. Renewable energy systems include solar energy, which
5 is an important resource in Hawaii's renewable energy portfolio
6 and represents an immediately available and substantial
7 renewable energy opportunity. However, since not all Hawaii
8 residents and businesses are able to purchase and operate
9 individual renewable energy systems because of financial
10 barriers, third-party on-site systems may offer alternative
11 financing options for more consumers.

12 The legislature finds that exempting third-party suppliers
13 of renewable energy-generated electricity from equipment located
14 on another person's property from the definition of "public
15 utility" will promote the use of renewable energy by more Hawaii
16 residents. Third-party renewable energy providers serve a
17 different purpose than large public utilities do; they can
18 provide a supplemental service to property owners who are able



1 to provide a site for the renewable energy system and negotiate
2 terms and price instead of supplying necessary services to
3 captive consumers as public utilities do. Therefore, third-
4 party renewable energy systems should not be defined as a public
5 utility.

6 The purpose of this Act is to:

7 (1) Require the public utilities commission to monitor the
8 impacts of net energy metering; and

9 (2) Clarify that third-party owners and operators of on-
10 site renewable energy systems are exempt from
11 regulation as public utilities by the public utilities
12 commission when they provide, sell, or transmit
13 electricity generated from the system to the property
14 owner, an electric utility, or both.

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

18 "§269- Impact monitoring. The commission shall monitor
19 the impact of net energy metering including:

20 (1) Monitoring information from both the utility and the
21 renewable energy provider; and



1 (2) Analyzing the costs and benefits of net energy
 2 metering to minimize adverse impacts to electric
 3 utility ratepayers."

4 SECTION 3. Section 269-1, Hawaii Revised Statutes, is
 5 amended as follows:

6 1. By adding two new definitions to be appropriately
 7 inserted and to read:

8 "Commission" means the public utilities commission, unless
 9 a different meaning clearly appears from the context.

10 "Renewable energy system" means any identifiable facility,
 11 equipment, apparatus, or the like that converts renewable
 12 energy, as defined in section 269-91, to useful thermal or
 13 electrical energy for heating, cooling, or reducing the use of
 14 other types of energy that are dependent on fossil fuel for
 15 their generation."

16 2. By amending the definition of "public utility" to read:

17 "Public utility":

18 (1) Includes every person who may own, control, operate,
 19 or manage as owner, lessee, trustee, receiver, or
 20 otherwise, whether under a franchise, charter,
 21 license, articles of association, or otherwise, any
 22 plant ~~[or]~~, equipment, or ~~[any]~~ part thereof, directly



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

13 (A) [~~Any person insofar as that person owns or~~
 14 ~~operates~~] The owner or operator of a private
 15 sewer company or sewer facility; and

16 (B) [~~Any~~] A telecommunications carrier or
 17 telecommunications common carrier; and

18 (2) Shall not include:

19 (A) [~~Any person insofar as that person owns or~~
 20 ~~operates~~] The owner or operator of an aerial
 21 transportation enterprise;



- 1 (B) ~~[Persons owning or operating taxicabs,]~~ The owner
2 or operator of a taxicab as defined in this
3 section;
- 4 (C) Common carriers ~~[transporting]~~ that transport
5 only freight on the public highways, unless
6 operating within localities ~~[or]~~, along routes,
7 or between points that the ~~[public utilities]~~
8 commission finds to be inadequately serviced
9 without regulation under this chapter;
- 10 (D) Persons engaged in the business of warehousing or
11 storage unless the commission finds that
12 regulation ~~[thereof]~~ is necessary in the public
13 interest;
- 14 (E) ~~[The business of any]~~ A carrier by water to the
15 extent that the carrier enters into private
16 contracts for towage, salvage, hauling, or
17 carriage between points within the State ~~[and~~
18 the]; provided that the towing, salvage, hauling,
19 or carriage is not pursuant to either an
20 established schedule or an undertaking to perform
21 carriage services on behalf of the public
22 generally;

- 1 (F) [~~The business of any~~] A carrier by water,
2 substantially engaged in interstate or foreign
3 commerce, [~~transporting~~] that transports
4 passengers on luxury cruises between points
5 within the State or on luxury round-trip cruises
6 returning to the point of departure;
- 7 (G) Any person who:
 - 8 (i) Controls, operates, or manages plants or
9 facilities for the production, transmission,
10 or furnishing of power primarily or entirely
11 from nonfossil fuel sources; and
 - 12 (ii) Provides, sells, or transmits all of that
13 power, except [~~such power~~] as is used in its
14 own internal operations, directly to a
15 public utility for transmission to the
16 public;
- 17 (H) A telecommunications provider only to the extent
18 determined by the commission pursuant to section
19 269-16.9;
- 20 (I) Any person who controls, operates, or manages
21 plants or facilities developed pursuant to
22 chapter 167 for conveying, distributing, and



1 transmitting water for irrigation and [such]
2 other purposes [~~that shall be held~~] for public
3 use and purpose;

4 (J) Any person who owns, controls, operates, or
5 manages plants or facilities for the reclamation
6 of wastewater; provided that:

7 (i) The services of the facility [~~shall be~~] are
8 provided pursuant to a service contract
9 between the person and a state or county
10 agency and at least ten per cent of the
11 wastewater processed is used directly by the
12 State or county [~~which~~] agency that has
13 entered into the service contract;

14 (ii) The primary function of the facility [~~shall~~
15 ~~be~~] is the processing of secondary treated
16 wastewater that has been produced by a
17 municipal wastewater treatment facility
18 [~~that is~~] owned by a state or county agency;

19 (iii) The facility [~~shall~~] does not make sales of
20 water to residential customers;

21 (iv) The facility may distribute and sell
22 recycled or reclaimed water to entities not



1 covered by a state or county service
2 contract; provided that, in the absence of
3 regulatory oversight and direct competition,
4 the distribution and sale of recycled or
5 reclaimed water shall be voluntary and its
6 pricing fair and reasonable. For purposes
7 of this subparagraph, "recycled water" and
8 "reclaimed water" [~~means~~] mean treated
9 wastewater that by design is intended or
10 used for a beneficial purpose; and

11 (v) The facility [~~shall~~] is not [~~be~~] engaged,
12 either directly or indirectly, in the
13 processing of food wastes;

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

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



1 charge or discharge a vehicle battery that
2 provides power for vehicle propulsion[-]; and
3 (M) Any person who:
4 (i) Owms, controls, operates, or manages a
5 renewable energy system that is located on
6 property owned by another person; and
7 (ii) Provides, sells, or transmits the
8 electricity generated from that renewable
9 energy system exclusively to the property
10 owner or to an electric utility, or both;
11 provided that this exemption shall not apply
12 to a person on whose property a renewable
13 energy system is located who sells or re-
14 sells electricity generated by the renewable
15 energy system to that person's lessees,
16 sublessees, or tenants located on the
17 property; provided further that, for
18 purposes of this clause, the property shall
19 include all contiguous parcels of real
20 property owned or leased by the person,
21 without regard to interruptions in
22 contiguity caused by easements, public



1 thoroughfares, transportation rights-of-way,
2 and utility rights-of-way.

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

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect on July 1, 2020.



Report Title:

Renewable Energy; Public Utilities Commission

Description:

Exempts third-party customer-generated renewable energy systems from the definition of public utility. Directs the PUC to monitor the impact of net energy metering, including accounting of costs and benefits on electric utility ratepayers to minimize adverse impacts and to include information from both the utility and the renewable energy provider in the monitoring. Effective July 1, 2020. (HB1520 HD2)

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