
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. The legislature further finds that solar energy is
5 one of Hawaii's most important renewable energy options,
6 representing an immediately available and substantial renewable
7 energy opportunity. Since not all Hawaii residents are willing
8 or able to purchase and operate individual solar energy systems,
9 third party on-site systems may increase access to solar energy
10 for more consumers.

11 The legislature finds that exempting third party suppliers
12 of solar-generated electricity or heat from equipment located on
13 a consumer's property from the definition of "public utility"
14 will promote the use of solar energy by more Hawaii residents.
15 Third party solar energy providers serve a different purpose
16 than large public utilities currently do; they provide a
17 supplemental service to voluntary customers who are able to
18 negotiate terms and price instead of supplying necessary



1 services to captive consumers as public utilities currently do.
2 Therefore, third party solar energy providers should be exempt
3 from regulation as public utilities.

4 The purpose of this Act is to exempt third party owners and
5 operators of on-site solar heat and energy generating equipment
6 from regulation as public utilities by the public utilities
7 commission.

8 SECTION 2. Section 269-1, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By adding a new definition to be appropriately inserted
11 and to read:

12 "Solar energy system" means any identifiable facility,
13 equipment, apparatus, or the like that converts solar energy to
14 useful thermal or electrical energy for heating, cooling, or
15 reducing the use of other types of energy that are dependent on
16 fossil fuel for their generation."

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

18 "Public utility":

19 (1) Includes every person who may own, control, operate,
20 or manage as owner, lessee, trustee, receiver, or
21 otherwise, whether under a franchise, charter,
22 license, articles of association, or otherwise, any



1 plant or equipment, or any part thereof, directly or
2 indirectly for public use [7] for the transportation of
3 passengers or freight [~~7-0x~~]; for the conveyance or
4 transmission of telecommunications messages [~~7-0x~~]; for
5 the furnishing of facilities for the transmission of
6 intelligence by electricity [~~by land or water or air~~]
7 within the State [7] or between points within the
8 State [~~7-0x~~] by land, water, or air; for the
9 production, conveyance, transmission, delivery, or
10 furnishing of light, power, heat, cold, water, gas, or
11 oil [~~7-0x~~]; for the storage or warehousing of goods [~~7~~
12 ~~0x~~]; or for the disposal of sewage; provided that the
13 term shall include:

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

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

19 (2) Shall not include:

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



- 1 (B) ~~[Persons owning or operating taxicabs,]~~ An 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;
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- 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 provided that the towing, salvage, hauling, or
19 carriage is not pursuant to either an established
20 schedule or an undertaking to perform carriage
21 services on behalf of the public 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 public utilities commission
19 pursuant to section 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~~] state or county agency which 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 treated wastewater
9 that by design is intended or used for a
10 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) Owns, controls, operates, or manages a solar
5 energy system that is located on a
6 customer's property; and

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

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



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

6 SECTION 3. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect on July 1, 2011.

9



Report Title:

Renewable Energy; Public Utilities Commission

Description:

Exempts certain third party owners and operators of on-site solar heat and energy generating systems from regulation as public utilities 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.

