
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 or heat from equipment
14 located on another person's property from the definition of
15 "public utility" will promote the use of renewable energy by
16 more Hawaii residents. Third-party renewable energy providers
17 serve a different purpose than large public utilities do; they
18 can provide a supplemental service to property owners who are



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

6 The purpose of this Act is to clarify that third-party
7 owners and operators of on-site renewable energy systems are
8 exempt from regulation as public utilities by the public
9 utilities commission when they provide, sell, or transmit
10 electricity generated from the system to the property owner, an
11 electric utility, or both.

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

15 "§269- Impact monitoring. The public utilities
16 commission shall monitor the impact of net energy metering,
17 including accounting for costs and benefits to electric utility
18 ratepayers to minimize adverse impacts and monitoring
19 information from both the utility and the renewable energy
20 provider."

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



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

3 "Renewable energy system" means any identifiable facility,
4 equipment, apparatus, or the like that converts renewable
5 energy, as defined in section 269-91, to useful thermal or
6 electrical energy for heating, cooling, or reducing the use of
7 other types of energy that are dependent on fossil fuel for
8 their generation."

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

10 "Public utility":

11 (1) Includes every person who may own, control, operate,
12 or manage as owner, lessee, trustee, receiver, or
13 otherwise, whether under a franchise, charter,
14 license, articles of association, or otherwise, any
15 plant [~~or~~], equipment, or [~~any~~] part thereof, directly
16 or indirectly for public use, for the transportation
17 of passengers or freight, [~~or~~] the conveyance or
18 transmission of telecommunications messages, or the
19 furnishing of facilities for the transmission of
20 intelligence by electricity [~~by land or water or air~~]
21 within the State[~~]~~ or between points within the
22 State[~~,~~ ~~or~~] by land, water, or air; for the



1 production, conveyance, transmission, delivery, or
2 furnishing of light, power, heat, cold, water, gas, or
3 oil~~[, or]~~; for the storage or warehousing of goods~~[,~~
4 ~~or]~~; or for the disposal of sewage; provided that the
5 term shall include:

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

9 (B) ~~[Any]~~ A telecommunications carrier or
10 telecommunications common carrier; and

11 (2) Shall not include:

12 (A) ~~[Any person insofar as that person owns or~~
13 ~~operates]~~ The owner or operator of an aerial
14 transportation enterprise;

15 (B) ~~[Persons owning or operating taxicabs,]~~ The owner
16 or operator of a taxicab as defined in this
17 section;

18 (C) Common carriers ~~[transporting]~~ that transport
19 only freight on the public highways, unless
20 operating within localities ~~[or]~~, along routes,
21 or between points that the public utilities



- 1 commission finds to be inadequately serviced
2 without regulation under this chapter;
- 3 (D) Persons engaged in the business of warehousing or
4 storage unless the commission finds that
5 regulation [~~thereof~~] is necessary in the public
6 interest;
- 7 (E) [~~The business of any~~] A carrier by water to the
8 extent that the carrier enters into private
9 contracts for towage, salvage, hauling, or
10 carriage between points within the State [~~and~~];
11 provided that the towing, salvage, hauling, or
12 carriage is not pursuant to either an established
13 schedule or an undertaking to perform carriage
14 services on behalf of the public generally;
- 15 (F) [~~The business of any~~] A carrier by water,
16 substantially engaged in interstate or foreign
17 commerce, [~~transporting~~] 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;
- 21 (G) Any person who:



- 1 (i) Controls, operates, or manages plants or
2 facilities for the production, transmission,
3 or furnishing of power primarily or entirely
4 from nonfossil fuel sources; and
- 5 (ii) Provides, sells, or transmits all of that
6 power, except [~~such power~~] as is used in its
7 own internal operations, directly to a
8 public utility for transmission to the
9 public;
- 10 (H) A telecommunications provider only to the extent
11 determined by the public utilities commission
12 pursuant to section 269-16.9;
- 13 (I) Any person who controls, operates, or manages
14 plants or facilities developed pursuant to
15 chapter 167 for conveying, distributing, and
16 transmitting water for irrigation and [~~such~~]
17 other purposes [~~that shall be held~~] for public
18 use and purpose;
- 19 (J) Any person who owns, controls, operates, or
20 manages plants or facilities for the reclamation
21 of wastewater; provided that:



- 1 (i) The services of the facility [~~shall be~~] are
2 provided pursuant to a service contract
3 between the person and a state or county
4 agency and at least ten per cent of the
5 wastewater processed is used directly by the
6 State or county [~~which~~] agency that has
7 entered into the service contract;
- 8 (ii) The primary function of the facility [~~shall~~
9 ~~be~~] is the processing of secondary treated
10 wastewater that has been produced by a
11 municipal wastewater treatment facility
12 [~~that is~~] owned by a state or county agency;
- 13 (iii) The facility [~~shall~~] does not make sales of
14 water to residential customers;
- 15 (iv) The facility may distribute and sell
16 recycled or reclaimed water to entities not
17 covered by a state or county service
18 contract; provided that, in the absence of
19 regulatory oversight and direct competition,
20 the distribution and sale of recycled or
21 reclaimed water shall be voluntary and its
22 pricing fair and reasonable. For purposes



1 of this subparagraph, "recycled water" and
2 "reclaimed water" means treated wastewater
3 that by design is intended or used for a
4 beneficial purpose; and

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

8 (K) Any person who owns, controls, operates, or
9 manages any seawater air conditioning district
10 cooling project; provided that at least fifty per
11 cent of the energy required for the seawater air
12 conditioning district cooling system is provided
13 by a renewable energy resource, such as cold,
14 deep seawater; [~~and~~]

15 (L) Any person who owns, controls, operates, or
16 manages plants or facilities primarily used to
17 charge or discharge a vehicle battery that
18 provides power for vehicle propulsion[~~-~~]; and

19 (M) Any person who:

20 (i) Owns, controls, operates, or manages a
21 renewable energy system that is located on
22 property owned by another person; and



1 (ii) Provides, sells, or transmits the
2 electricity generated from that renewable
3 energy system exclusively to the property
4 owner or to an electric utility, or both;
5 provided that this exemption shall not apply
6 to a person on whose property a renewable
7 energy system is located who sells or re-
8 sells electricity generated by the renewable
9 energy system to that person's lessees,
10 sublessees, or tenants located on the
11 property; provided further that, for
12 purposes of this clause, the property shall
13 include all contiguous parcels of real
14 property owned or leased by the person,
15 without regard to interruptions in
16 contiguity caused by easements, public
17 thoroughfares, transportation rights-of-way,
18 and utility rights-of-way.

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



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

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

9 SECTION 5. This Act shall take effect on July 1, 2011.



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, 2011. (HB1520 HD1)

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

