

---

---

# A BILL FOR AN ACT

RELATING TO PUBLIC UTILITIES.

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

1           SECTION 1. 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



1 goods; or for the disposal of sewage; provided that  
2 the term shall include:

3 (A) An owner or operator of a private sewer company  
4 or sewer facility; [and]

5 (B) A telecommunications carrier or  
6 telecommunications common carrier; and

7 (C) Notwithstanding any provision to the contrary, an  
8 owner or operator of a high-voltage electric  
9 transmission cable system for transmission of  
10 electricity between islands, regardless of  
11 whether the electricity is produced from  
12 nonfossil fuel sources; provided that the  
13 commission finds that regulation is necessary in  
14 the public interest; 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  
22 localities, along routes, or between points that



1                   the public utilities commission finds to be  
2                   inadequately serviced without regulation under  
3                   this chapter;

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

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

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

20                  (G) Any person who:  
21                      (i) Controls, operates, or manages plants or  
22                      facilities for the production, transmission,



1 or furnishing of power primarily or entirely  
2 from nonfossil fuel sources; and

3 (ii) Provides, sells, or transmits all of that  
4 power, except as is used in its own internal  
5 operations, directly to a public utility for  
6 transmission to the public;

7 (H) A telecommunications provider only to the extent  
8 determined by the public utilities commission  
9 pursuant to section 269-16.9;

10 (I) Any person who controls, operates, or manages  
11 plants or facilities developed pursuant to  
12 chapter 167 for conveying, distributing, and  
13 transmitting water for irrigation and other  
14 purposes for public use and purpose;

15 (J) Any person who owns, controls, operates, or  
16 manages plants or facilities for the reclamation  
17 of wastewater; provided that:

18 (i) The services of the facility are provided  
19 pursuant to a service contract between the  
20 person and a state or county agency and at  
21 least ten per cent of the wastewater  
22 processed is used directly by the state or



1 county agency that entered into the service  
2 contract;

3 (ii) The primary function of the facility is the  
4 processing of secondary treated wastewater  
5 that has been produced by a municipal  
6 wastewater treatment facility owned by a  
7 state or county agency;

8 (iii) The facility does not make sales of water to  
9 residential customers;

10 (iv) The facility may distribute and sell  
11 recycled or reclaimed water to entities not  
12 covered by a state or county service  
13 contract; provided that, in the absence of  
14 regulatory oversight and direct competition,  
15 the distribution and sale of recycled or  
16 reclaimed water shall be voluntary and its  
17 pricing fair and reasonable. For purposes  
18 of this subparagraph, "recycled water" and  
19 "reclaimed water" means treated wastewater  
20 that by design is intended or used for a  
21 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; and
  
- 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
- 22                                       whose property the renewable energy system



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

9 If the application of this chapter is ordered by the  
10 commission in any case provided in paragraphs (2) (C), (2) (D),  
11 (2) (H), and (2) (I), the business of any public utility that  
12 presents evidence of bona fide operation on the date of the  
13 commencement of the proceedings resulting in the order shall be  
14 presumed to be necessary to the public convenience and  
15 necessity, but any certificate issued under this proviso shall  
16 nevertheless be subject to terms and conditions as the public  
17 utilities commission may prescribe, as provided in sections 269-  
18 16.9 and 269-20."

19 SECTION 2. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



# H.B. NO. 2663

1 SECTION 3. This Act shall take effect upon its approval.

2

INTRODUCED BY:

*Calvin K. Boy*

By Request

JAN 24 2012





# H.B. NO. 2663

**Report Title:**

Public Utilities; High-Voltage Electric Transmission Cable System

**Description:**

Includes a high-voltage electric transmission cable system for interisland transmission of electricity in the definition of "public utility", regardless of whether the electricity is generated using nonfossil fuels, provided that the PUC finds that regulation is in the public interest.

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

