

JAN 24 2013

A BILL FOR AN ACT

RELATING TO COMMUNITY-BASED RENEWABLE ENERGY.

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

1 SECTION 1. The legislature finds that all Hawaii residents
2 should be able to participate in and enjoy the economic,
3 environmental, and societal benefits of renewable energy.
4 Spurred by the Hawaii clean energy initiative and increasingly
5 affordable clean energy options, such as solar photovoltaic,
6 localized renewable energy generation technology has become
7 increasingly attainable for all types of consumers over the past
8 several years.

9 While the amount of residential solar energy use statewide
10 doubled in 2012, many individuals and households are currently
11 unable to directly participate in renewable energy because of
12 their location, building type, access to the electric utility
13 grid, and other impediments.

14 The community-based renewable energy program seeks to
15 rectify this inequity by dramatically expanding the market for
16 eligible renewable energy resources to include residential and
17 commercial renters, residential and commercial buildings with
18 shaded or improperly oriented roofs, and other groups who are



1 unable to access the benefits of onsite generation. The
2 legislature finds that it is in the public interest to promote
3 broader participation in self-generation by Hawaii residents,
4 public agencies, and businesses by the development of community
5 renewable energy facilities in which participants are entitled
6 to generate electricity and receive credit for that electricity
7 on their utility bills.

8 Community-based renewable energy creates new construction
9 jobs, stimulates the economy, reduces emissions of greenhouse
10 gases, promotes energy independence, and will assist in meeting
11 the State's clean energy goals. Further, community-based
12 renewable energy will enable schools, colleges, universities,
13 local governments, businesses and consumers to save money on
14 their electricity bills, thereby helping to fund educational
15 programs, social services, and new hiring.

16 It is the intent of the legislature that as the public
17 utilities commission works to implement this Act, the commission
18 carefully consider regulatory barriers to distributed generation
19 projects, both already identified and not, and quickly address
20 barriers in a manner that is conducive to the development of
21 distributed generation projects consistent with appropriate
22 ratepayer protections.



1 The purpose of this Act is to establish the Hawaii
2 community-based renewable energy program to make the benefits of
3 renewable energy more accessible to a greater number of Hawaii
4 residents.

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

8 **"PART COMMUNITY-BASED RENEWABLE ENERGY**

9 **§269-A Definitions.** As used in this part:

10 "Benefiting account" means one or more accounts designated
11 to receive a bill credit under section 269-B.

12 "Bill credit" means an amount of money credited each month
13 to one or more benefiting accounts based on the percentage share
14 of the community renewable energy facility that is assigned to
15 the account pursuant to the methodology described in section
16 269-D.

17 "Community renewable energy facility" means a facility for
18 the generation of electricity that meets the following
19 requirements:

- 20 (1) Has a generating capacity of no more than one
21 megawatt;



- 1 (2) Produces renewable energy as defined in section 269-
- 2 91;
- 3 (3) Measures the electrical output of the facility by a
- 4 production meter capable of recording electrical
- 5 generation in real time;
- 6 (4) Is located within the service territory of an electric
- 7 utility;
- 8 (5) Operates in parallel with the electric utility's
- 9 transmission and distribution facilities;
- 10 (6) Conforms with the electric utility's interconnection
- 11 requirements;
- 12 (7) Is not subject to net metering under part VI of this
- 13 chapter; and
- 14 (8) Achieves initial commercial operation on January 1,
- 15 2014, or thereafter.

16 "Interest" means a direct or indirect ownership, lease,
17 subscription, or financing interest in a community renewable
18 energy facility that enables the participant to receive a bill
19 credit for a retail account with the electric utility.

20 "Participant" means a retail customer of an electric
21 utility who owns, leases, finances, or subscribes to an interest
22 in a community renewable energy facility and who has designated



1 one or more of its own retail accounts as a benefiting account
2 to which the subscription shall be attributed.

3 "Participant organization" means any entity whose purpose
4 is to beneficially own or operate a community renewable energy
5 facility for the participants or owners of that facility.

6 **§269-B Community renewable energy facilities; benefiting**
7 **accounts; participants.** (a) A retail customer of an electric
8 utility may acquire an interest in a community renewable energy
9 facility for the purpose of becoming a participant and receiving
10 a bill credit to offset all or a portion of the customer's bill
11 for electrical service. The participant shall designate one or
12 more benefiting accounts to which the interest shall be
13 attributed.

14 (b) A community renewable energy facility shall comply
15 with all safety and performance standards as required for
16 comparable net metered systems under section 269-111.

17 (c) To be eligible to be designated as a benefiting
18 account, the account shall be for service to premises located
19 within the geographical boundaries of the service territory of
20 the electric utility containing the community renewable energy
21 facility.



1 (d) Participants may aggregate their loads for the purpose
2 of participating in a community renewable energy facility
3 pursuant to this section.

4 (e) For a participant that elects to aggregate its loads
5 for the purpose of acquiring an interest in a community
6 renewable energy facility, the participant shall designate the
7 benefitting accounts and the allocation of the bill credit to
8 those accounts.

9 (f) A participant organization may beneficially own or
10 operate a community renewable energy facility for the
11 participants of that facility. A community renewable energy
12 facility may be built, owned, or operated by a third party under
13 contract with a participant organization.

14 (g) The commission shall not regulate the prices paid for
15 an interest in a community renewable energy facility, but may
16 enforce the required disclosures pursuant to section 269-H.

17 (h) The commission shall maintain a publicly available
18 database of existing and proposed community renewable energy
19 facilities. Proposed community renewable energy facilities
20 shall report their expected size, location, and commercial
21 operation date no less than six months prior to their commercial
22 operation date.



1 **§269-C Standard contract or tariff; rate structure.** (a)

2 Every electric utility shall develop a standard contract or
3 tariff providing for community-based renewable energy and shall
4 make this contract available to eligible participants.

5 (b) Each community-based renewable energy metering
6 contract or tariff shall be identical, with respect to rate
7 structure, to the contract or tariff to which the same customer
8 would be assigned if the customer was not a participant. The
9 charges for all retail rate components for participants shall be
10 based exclusively on the participant's net kilowatt-hour
11 consumption over a monthly billing period. Any new or
12 additional demand charge, standby charge, customer charge,
13 minimum monthly charge, interconnection charge, or other charge
14 that would increase a participant's costs beyond those of other
15 customers in the rate class to which the participant would
16 otherwise be assigned are contrary to the intent of this
17 section, and shall not form a part of community-based renewable
18 energy contracts or tariffs.

19 (c) The public utilities commission may amend the rate
20 structure or standard contract or tariff by rule or order.

21 **§269-D Calculation.** The bill credit calculation shall be
22 made by measuring the difference between the electricity



1 supplied to the benefiting account from the electric utility
2 and:

3 (1) The percentage share allocated to the benefiting
4 account of the electricity generated by the community
5 renewable energy facility and fed back to the electric
6 grid over a monthly billing period; and

7 (2) Any unused credits for excess electricity from the
8 percentage share allocated to the benefiting account
9 carried over from previous months since the last
10 twelve-month reconciliation period, pursuant to
11 section 269-E.

12 **§269-E Billing periods; twelve-month reconciliation.** (a)

13 Billing of a participant's benefiting accounts shall be on a
14 monthly basis; provided that the last monthly bill for each
15 twelve-month period shall reconcile for that twelve-month period
16 the net electricity provided by the electric utility with:

17 (1) The percentage share allocated to the benefiting
18 account of the electricity generated by the community
19 renewable energy facility and fed back to the electric
20 grid over the monthly billing period; and

21 (2) Any unused bill credits for excess electricity from
22 the percentage share allocated to the benefiting



1 account carried over from prior months since the last
2 twelve-month reconciliation period.

3 (b) Bill credits for the percentage share allocated to the
4 benefiting account of the excess electricity generated by the
5 community renewable energy facility that remain unused after
6 each twelve-month reconciliation period may not be carried over
7 to the next twelve-month period.

8 **§269-F Net electricity consumers.** At the end of each
9 monthly billing period, where the electricity supplied to the
10 benefiting account during the period by the electric utility
11 exceeds:

12 (1) The percentage share allocated to the benefiting
13 account of the electricity generated by the community
14 renewable energy facility during that same period; and

15 (2) Any unused bill credits for excess electricity from
16 the percentage share allocated to the benefiting
17 account of the electricity generated by the community
18 renewable energy facility carried over from prior
19 months since the last twelve-month reconciliation
20 period,

21 the benefiting account is a net electricity consumer and the
22 electric utility shall be owed compensation for the benefiting



1 account's net kilowatt-hour consumption over that same period.
2 The compensation owed for the benefiting account's net monthly
3 kilowatt-hour consumption shall be calculated at the retail rate
4 of the rate class to which the benefiting account would normally
5 be assigned if the customer were not a participant.

6 **§269-G Net electricity producers; excess electricity**
7 **credits and credit carry over.** At the end of each monthly
8 billing period, where the percentage share allocated to the
9 benefiting account of the electricity generated by the community
10 renewable energy facility during the month exceeds the
11 electricity supplied to the benefiting account by the electric
12 utility during that same period, the benefiting account is a net
13 electricity producer and the electric utility shall retain any
14 excess kilowatt-hours generated; provided that the percentage
15 share allocated to the benefiting account of the electricity
16 generated by the community renewable energy facility in excess,
17 if any, in each monthly billing period shall be carried over to
18 the next month as a monetary value to the credit of the
19 benefiting account, which bill credit may accumulate and be used
20 to offset the compensation owed the electric utility for the
21 benefiting account's net kilowatt-hour consumption for
22 succeeding months within each twelve-month period; provided



1 further that the electric utility shall reconcile the benefiting
2 account's consumption and the percentage share allocated to the
3 benefiting account of the electricity generated by the community
4 renewable energy facility for each twelve-month period as set
5 forth in section 269-E. The benefiting account shall not be
6 owed any compensation other than credits as provided in this
7 section for excess kilowatt-hours unless the electric utility
8 enters into a purchase agreement with the benefiting account for
9 those excess kilowatt-hours.

10 **§269-H Participant organization obligations.** (a) A
11 participant organization shall provide to the electric utility
12 information on the identity of the benefiting accounts that will
13 receive a bill credit pursuant to this part not less than thirty
14 days prior to the billing cycle for which the participant's
15 account will receive a bill credit.

16 (b) Prior to the sale of any interest in a community
17 renewable energy facility, the participant organization shall
18 provide a disclosure to the potential participant that, at a
19 minimum, includes all of the following:

20 (1) A good faith estimate of the annual kilowatt-hours to
21 be delivered by the community renewable energy
22 facility based on the size of the interest;



1 (2) A plain language explanation of the terms under which
2 the bill credits will be calculated;

3 (3) A plain language explanation of the contract
4 provisions regulating the disposition or transfer of
5 the interest; and

6 (4) A plain language explanation of the costs and benefits
7 to the potential participant based on current usage
8 and the applicable tariff, for the term of the
9 proposed contract.

10 (c) Not more than once per month, and upon providing the
11 electric utility with a minimum of thirty days' notice, the
12 participant organization may change, add, or remove a benefiting
13 account. If the owner of a benefiting account transfers service
14 to a new address or benefiting account, the electric utility
15 shall transfer any bill credits remaining from the previous
16 account to the new account.

17 (d) A participant organization shall be responsible for
18 providing to the electric utility company, on a monthly basis, a
19 statement of the percentage shares to be used to determine the
20 bill credit to each benefiting account. If there has been no
21 change in the allocations from the previous submission or in the
22 method of calculating the facility rate of participants, the



1 participant organization shall not be required to submit a new
2 statement.

3 (e) The participant organization shall provide real-time
4 meter data to the electric utility and shall make the data
5 available to a participant upon request. A participant
6 organization shall be responsible for all costs of metering and
7 shall retain production data for a period of thirty-six months.

8 (f) A participant organization shall provide no less than
9 one hundred twenty days' notice to the electric utility and the
10 commission prior to the date the community renewable energy
11 facility becomes operational.

12 (g) The participant organization shall be responsible for
13 all costs of interconnection at either the distribution or
14 transmission level of the electrical grid.

15 **§269-I Electric utility obligations.** (a) An electric
16 utility shall ensure that requests for the establishment of bill
17 credits and changes to benefiting accounts are processed in a
18 time period not to exceed thirty days from the date it receives
19 the request.

20 (b) An electric utility shall cooperate fully with
21 community renewable energy facilities to implement this part."



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:

21 (A) An owner or operator of a private sewer company
22 or sewer facility; and



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



- 1 to perform carriage services on behalf of the
2 public generally;
- 3 (F) A carrier by water, substantially engaged in
4 interstate or foreign commerce, that transports
5 passengers on luxury cruises between points
6 within the State or on luxury round-trip cruises
7 returning to the point of departure;
- 8 (G) Any user, owner, or operator of the Hawaii
9 electric system as defined under section 269-141;
- 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 other
17 purposes for public use and purpose;
- 18 (J) Any person who owns, controls, operates, or
19 manages plants or facilities for the reclamation
20 of wastewater; provided that:
- 21 (i) The services of the facility are provided
22 pursuant to a service contract between the



1 person and a state or county agency and at
2 least ten per cent of the wastewater
3 processed is used directly by the state or
4 county agency that entered into the service
5 contract;

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

11 (iii) The facility does not make sales of water to
12 residential customers;

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



- 1 that by design is intended or used for a
2 beneficial purpose; and
- 3 (v) The facility is not engaged, either directly
4 or indirectly, in the processing of food
5 wastes;
- 6 (K) Any person who owns, controls, operates, or
7 manages any seawater air conditioning district
8 cooling project; provided that at least fifty per
9 cent of the energy required for the seawater air
10 conditioning district cooling system is provided
11 by a renewable energy resource, such as cold,
12 deep seawater;
- 13 (L) Any person who owns, controls, operates, or
14 manages plants or facilities primarily used to
15 charge or discharge a vehicle battery that
16 provides power for vehicle propulsion; ~~and~~
- 17 (M) Any person who:
- 18 (i) Owns, controls, operates, or manages a
19 renewable energy system that is located on a
20 customer's property; and
- 21 (ii) Provides, sells, or transmits the power
22 generated from that renewable energy system



1 to an electric utility or to the customer on
2 whose property the renewable energy system
3 is located; provided that, for purposes of
4 this subparagraph, a customer's property
5 shall include all contiguous property owned
6 or leased by the customer without regard to
7 interruptions in contiguity caused by
8 easements, public thoroughfares,
9 transportation rights-of-way, and utility
10 rights-of-way[-]; and

11 (N) A person engaged directly or indirectly in developing,
12 producing, delivering, participating in, or selling
13 interests in a community renewable energy facility
14 under sections 269-A through 269-I.

15 If the application of this chapter is ordered by the
16 commission in any case provided in paragraph (2)(C), (D), (H),
17 and (I), the business of any public utility that presents
18 evidence of bona fide operation on the date of the commencement
19 of the proceedings resulting in the order shall be presumed to
20 be necessary to the public convenience and necessity, but any
21 certificate issued under this proviso shall nevertheless be
22 subject to terms and conditions as the public utilities



1 commission may prescribe, as provided in sections 269-16.9 and
2 269-20."

3 SECTION 4. In codifying the new sections added by sections
4 2 and 3 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 5. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect on July 1, 2013.

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S.B. NO. 1330

Report Title:

Community-based Renewable Energy Program; Facilities

Description:

Establishes the Hawaii community-based renewable energy program. Enables utility customers to participate in a community-based renewable energy facility and benefit from the electricity generated from such a facility. Effective July 1, 2013.

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

