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## 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 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 residential solar energy use statewide doubled in  
10 2012, many individuals and households are currently unable to  
11 directly participate in renewable energy because of their  
12 location, building type, access to the electric utility grid,  
13 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 clean energy generation.  
2 The legislature finds that it is in the public interest to  
3 promote broader participation in self-generation by Hawaii  
4 residents, public agencies, and businesses through the  
5 development of community renewable energy facilities in which  
6 participants are entitled to generate electricity and receive  
7 credit for that electricity 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 assists in meeting the  
11 State's clean energy goals. Further, community-based renewable  
12 energy enables schools, colleges, universities, local  
13 governments, businesses, and consumers to save money on their  
14 electricity bills, thereby helping to fund educational programs,  
15 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, whether identified or 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. This Act is not intended to delay or



1 limit electric utilities, regulated by public utilities  
2 commission, from establishing and implementing community-  
3 based renewable energy programs, and this Act shall not,  
4 absent the issuance of a rule or order by the public  
5 utilities commission, regulate the terms or operation of a  
6 community-based renewable energy program owned or operated by  
7 such electric utility.

8 The purpose of this Act is to establish the Hawaii  
9 community-based renewable energy program to make the benefits of  
10 renewable energy more accessible to a greater number of Hawaii  
11 residents.

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

15 "PART . COMMUNITY-BASED RENEWABLE ENERGY.

16 §269-A Definitions. As used in this part:

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

19 "Bill credit" means an amount of money credited each month  
20 to one or more benefiting accounts based on the percentage share  
21 of the community renewable energy facility that is assigned to



1 the account pursuant to the methodology described in section  
2 269-D.

3 "Commission" means the public utilities commission.

4 "Community renewable energy facility" means a facility for  
5 the generation of electricity, not owned or operated by an  
6 electric utility regulated by the commission, which provides  
7 community-based renewable energy and meets the following  
8 requirements:

- 9 (1) Produces renewable energy as defined in section  
10 269-91;
- 11 (2) Measures the electrical output of the facility by a  
12 production meter capable of recording electrical  
13 generation in real time;
- 14 (3) Is located within the service territory of an electric  
15 utility;
- 16 (4) Operates in parallel with the electric utility's  
17 transmission and distribution facilities;
- 18 (5) Conforms with the electric utility's interconnection  
19 requirements;
- 20 (6) Is not subject to net energy metering under part VI;  
21 and



1           (7) Achieves initial commercial operation on January 1,  
2                   2015, or thereafter.

3           "Electric utility" means a public utility as defined in  
4 section 269-1, for the production, conveyance, transmission,  
5 delivery, or furnishing of electric power.

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

10          "Maintenance expense" means a deduction to the  
11 participant's credit amount, as directed by the participant and  
12 collected by the electric utility for payment to the participant  
13 organization by the electric utility for deposit into a  
14 protected trust or escrow account not in the participant  
15 organization's name, for the sole purposes of maintaining the  
16 community renewable energy facility.

17          "Participant" means a retail customer of an electric  
18 utility who owns, leases, finances, or subscribes to an interest  
19 in a community renewable energy facility and who has designated  
20 one or more of its own retail accounts as a benefiting account  
21 to which the subscription shall be attributed.



1 "Participant organization" means any entity, other than an  
2 electric utility regulated by the commission, whose purpose is  
3 to own or operate a community renewable energy facility for the  
4 benefit of participants of that facility.

5 "Value" means the sum of electricity calculated in  
6 accordance with the applicable rate structure under section 269-  
7 c.

8 **§269-B Hawaii community-based renewable energy program;**  
9 **facilities; benefiting accounts; participants.** (a) There is  
10 established the Hawaii community-based renewable energy program  
11 to make renewable energy more accessible to a greater number of  
12 Hawaii residents.

13 (b) A retail customer of an electric utility may acquire  
14 an interest in a community renewable energy facility for the  
15 purpose of becoming a participant and receiving a bill credit to  
16 offset all or a portion of the customer's bill for electrical  
17 service. Each participant shall designate one or more  
18 benefiting accounts to which the interest shall be attributed.

19 (c) A community renewable energy facility shall comply  
20 with all safety and performance standards under section 269-111.

21 (d) To be eligible to be designated as a benefiting  
22 account, the account shall be for service to premises located



1 within the geographical boundaries of the service territory of  
2 the electric utility containing the community renewable energy  
3 facility.

4 (e) Participants may aggregate their loads for the purpose  
5 of participating in a community renewable energy facility  
6 pursuant to this part.

7 (f) A participant that elects to aggregate its loads for  
8 the purpose of acquiring an interest in a community renewable  
9 energy facility shall designate the benefiting accounts and the  
10 allocation of the bill credit to those accounts.

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

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

19 (i) Each electric utility shall maintain a publicly  
20 available database of existing and proposed community renewable  
21 energy facilities.



1           §269-C Standard contract or tariff; rate structure. (a)  
2 Every electric utility shall develop a standard community-based  
3 renewable energy metering contract or tariff, for approval by  
4 the commission, providing for community-based renewable energy  
5 and shall make this contract or tariff available to  
6 participants. The commission may amend the rate structure,  
7 standard contract, or tariff by rule or order. This contract or  
8 tariff shall:

9           (1) Calculate the value of the bill credit or bill owed  
10           for the benefiting account's kilowatt-hour production  
11           and consumption based on a time-of-use rate structure  
12           that, at a minimum:

13           (A) Reflects the time-dependent value of the  
14           participants' energy generated, and time-  
15           dependent cost of the participants' energy  
16           consumed, as such value changes based on utility  
17           demand and on the availability of energy  
18           resources; and

19           (B) Reflects the value of ancillary services or  
20           demand response capability provided by the  
21           community renewable energy facility and  
22           participants; or





1           (2) Calculate the value of the bill credit or bill owed  
2           for the benefiting account's kilowatt-hour production  
3           and consumption:

4           (A) At the retail rate of the rate class to which the  
5           benefiting account would normally be assigned if  
6           the customer were not a participant;

7           (B) With an allowable fixed monthly charge that  
8           reflects the utility's fixed costs associated  
9           with participants' use of the utility's  
10          transmission, distribution, and other  
11          infrastructure; and

12          (C) With a monthly credit based on the value of any  
13          ancillary services or demand response capability  
14          provided by the community renewable energy  
15          facility and participants.

16          (b) For participants who have acquired an interest in an  
17          operational or proposed community renewable energy facility  
18          prior to the date of commission approval of a contract or tariff  
19          developed by an electric utility in accordance with subsection

20          (a):

21               (1) Each community-based renewable energy metering  
22               contract or tariff shall be identical, with respect to



1 the value of electricity and the rate structure, to  
2 the contract or tariff to which the same customer  
3 would be assigned if the customer was not a  
4 participant;

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

20 (3) The value of the compensation owed for the benefiting  
21 account's net monthly kilowatt-hour consumption shall  
22 be calculated at the retail rate of the rate class to



1           which the benefiting account would normally be  
2           assigned if the customer were not a participant.

3           **§269-D Calculation.** The bill credit calculation shall be  
4 made by measuring the difference between the value of  
5 electricity supplied to the benefiting account from the electric  
6 utility, and:

- 7           (1) The percentage share allocated to the benefiting  
8           account of the value of the electricity generated by  
9           the community renewable energy facility and fed back  
10           to the electric grid over a monthly billing period;
- 11           (2) Any maintenance expenses deducted; and
- 12           (3) Any unused credits for the value of excess electricity  
13           from the percentage share allocated to the benefiting  
14           account, carried over from previous months since the  
15           last twelve-month reconciliation period, pursuant to  
16           section 269-E.

17           **§269-E Billing periods; twelve-month reconciliation.** (a)  
18 Billing of a participant's benefiting accounts shall be on a  
19 monthly basis; provided that the last monthly bill for each  
20 twelve-month period shall reconcile for that twelve-month period  
21 the applicable monthly bill credit or bill owed with:



- 1           (1) The percentage share allocated to the benefiting  
2           account of the value of the electricity generated by  
3           the community renewable energy facility and fed back  
4           to the electric grid over the monthly billing period;  
5           (2) Any maintenance expense deducted; and  
6           (3) Any unused bill credits for the value of excess  
7           electricity from the percentage share allocated to the  
8           benefiting account, carried over from prior months  
9           since the last twelve-month reconciliation period.

10           (b) Bill credits for the percentage share allocated to the  
11           benefiting account of the value of excess electricity generated  
12           by the community renewable energy facility that remain unused  
13           after each twelve-month reconciliation period shall not be  
14           carried over to the next twelve-month period.

15           **§269-F Net electricity consumers.** At the end of each  
16           monthly billing period, if the value of the electricity supplied  
17           to the benefiting account by the electric utility during the  
18           period exceeds:

- 19           (1) The percentage share allocated to the benefiting  
20           account of the value of the electricity generated by  
21           the community renewable energy facility during that  
22           same period;



1           (2) Any maintenance expense deducted; and  
2           (3) Any unused bill credits for the value of excess  
3           electricity from the percentage share allocated to the  
4           benefiting account of the value of the electricity,  
5           generated by the community renewable energy facility,  
6           carried over from prior months since the last twelve-  
7           month reconciliation period,  
8           the benefiting account shall be deemed a net electricity  
9           consumer who shall owe the electric utility compensation for the  
10          value of the benefiting account's kilowatt-hour consumption over  
11          that same period.

12           **§269-G Net electricity producers; excess electricity**  
13          **credits and credit carry-over.** (a) At the end of each monthly  
14          billing period, if the percentage share allocated to the  
15          benefiting account of the value of the electricity generated by  
16          the community renewable energy facility during the month exceeds  
17          the value of electricity supplied to the benefiting account by  
18          the electric utility during that same period, the benefiting  
19          account shall be deemed a net electricity producer and shall  
20          retain a credit for the value of such electricity production;  
21          provided that:



1           (1) The percentage share allocated to the benefiting  
2           account of the electricity generated by the community  
3           renewable energy facility in excess, if any, in each  
4           monthly billing period shall be carried over to the  
5           next month as a monetary value to the credit of the  
6           benefiting account, which bill credit may accumulate  
7           and be used to offset the compensation owed the  
8           electric utility for the benefiting account's  
9           electricity service for succeeding months within each  
10          twelve-month period; and

11          (2) The electric utility shall reconcile the value of the  
12          benefiting account's consumption and the percentage  
13          share allocated to the benefiting account of the value  
14          of the electricity generated by the community  
15          renewable energy facility for each twelve-month period  
16          as set forth in section 269-E.

17          (b) The benefiting account shall not be owed any  
18          compensation other than credits as provided in this section  
19          unless the electric utility enters into a purchase agreement  
20          with the benefiting account for those excess kilowatt-hours.

21          §269-H Participant organization obligations. (a) A  
22          participant organization shall provide to the electric utility



1 information on the identity of the benefiting accounts that will  
2 receive a bill credit pursuant to this part not less than thirty  
3 days prior to the billing cycle for which the participant's  
4 account will receive a bill credit.

5 (b) Prior to the sale of any interest in a community  
6 renewable energy facility, the participant organization shall  
7 provide a disclosure to the potential participant that, at a  
8 minimum, includes all of the following:

9 (1) A good faith estimate of the annual kilowatt-hours to  
10 be delivered by the community renewable energy  
11 facility based on the size of the interest and the  
12 term of that interest;

13 (2) A plain language explanation of the form and term of  
14 participation and the disposition of the participant's  
15 portion after the term;

16 (3) A plain language explanation of the terms under which  
17 the bill credits will be calculated;

18 (4) A plain language explanation of the contract  
19 provisions regulating the disposition or transfer of  
20 the interest and the mechanism for a participant to  
21 change the designation of a benefiting account; and



1           (5) A plain language explanation of the costs and benefits  
2           to the potential participant based on current usage  
3           and the applicable tariff, for the term of the  
4           proposed contract.

5           (c) Upon providing the electric utility with a minimum of  
6           thirty days' notice, the participant organization may change,  
7           add, or remove a benefiting account not more than once per  
8           month. If the owner of a benefiting account transfers service  
9           to a new address or benefiting account, the electric utility  
10          shall transfer any bill credits remaining from the previous  
11          account to the new account.

12          (d) A participant organization shall be responsible for  
13          providing to the electric utility a monthly statement of the  
14          percentage shares to be used to determine the bill credit to  
15          each benefiting account and the associated maintenance expenses  
16          to be deducted. The maintenance expenses shall be monetized at  
17          the customer rate class. If there has been no change in the  
18          allocations from the previous submission or in the method of  
19          calculating the facility rate of participants, the participant  
20          organization shall not be required to submit a new statement.

21          (e) The participant organization shall provide real-time  
22          meter data to the electric utility and shall make the data





1 available to a participant upon request. A participant  
2 organization shall be responsible for all costs of metering and  
3 shall retain production data for a period of thirty-six months.

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

8 (g) The participant organization shall be responsible for  
9 providing an operations and maintenance plan to the electric  
10 utility and to the commission that details the renewable energy  
11 facility's sources and uses of operations and maintenance funds  
12 for the term of the facility.

13 §269-I Electric utility obligations. (a) An electric  
14 utility shall process requests for the establishment of bill  
15 credits and changes to benefiting accounts within thirty days  
16 from the date it receives the request.

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

19 SECTION 3. Section 269-1, Hawaii Revised Statutes, is  
20 amended by amending the definition of "public utility" to read  
21 as follows:

22 ""Public utility":



1           (1) Includes every person who may own, control, operate,  
2                    or manage as owner, lessee, trustee, receiver, or  
3                    otherwise, whether under a franchise, charter,  
4                    license, articles of association, or otherwise, any  
5                    plant or equipment, or any part thereof, directly or  
6                    indirectly for public use for the transportation of  
7                    passengers or freight; for the conveyance or  
8                    transmission of telecommunications messages; for the  
9                    furnishing of facilities for the transmission of  
10                  intelligence by electricity within the State or  
11                  between points within the State by land, water, or  
12                  air; for the production, conveyance, transmission,  
13                  delivery, or furnishing of light, power, heat, cold,  
14                  water, gas, or oil; for the storage or warehousing of  
15                  goods; or for the disposal of sewage; provided that  
16                  the term shall include:

17                (A) An owner or operator of a private sewer company  
18                        or sewer facility; and

19                (B) A telecommunications carrier or  
20                        telecommunications common carrier; and

21           (2) Shall not include:



# H.B. NO. 2141

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



- 1 (F) A carrier by water, substantially engaged in  
2 interstate or foreign commerce, that transports  
3 passengers on luxury cruises between points  
4 within the State or on luxury round-trip cruises  
5 returning to the point of departure;
- 6 (G) Any user, owner, or operator of the Hawaii  
7 electric system as defined under section 269-141;
- 8 (H) A telecommunications provider only to the extent  
9 determined by the public utilities commission  
10 pursuant to section 269-16.9;
- 11 (I) Any person who controls, operates, or manages  
12 plants or facilities developed pursuant to  
13 chapter 167 for conveying, distributing, and  
14 transmitting water for irrigation and other  
15 purposes for public use and purpose;
- 16 (J) Any person who owns, controls, operates, or  
17 manages plants or facilities for the reclamation  
18 of wastewater; provided that:
- 19 (i) The services of the facility are provided  
20 pursuant to a service contract between the  
21 person and a state or county agency and at  
22 least ten per cent of the wastewater



1 processed is used directly by the state or  
2 county agency that entered into the service  
3 contract;

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

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

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

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 subparagraph, a customer's property  
3 shall include all contiguous property owned  
4 or 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; [~~and~~]

9 (N) Any person who owns, controls, operates, or  
10 manages a renewable energy system that is located  
11 on such person's property and provides, sells, or  
12 transmits the power generated from that renewable  
13 energy system to an electric utility or to  
14 lessees or tenants on the person's property where  
15 the renewable energy system is located; provided  
16 that:

17 (i) An interconnection, as defined in section  
18 269-141, is maintained with an electric  
19 public utility to preserve the lessees' or  
20 tenants' ability to be served by an electric  
21 utility;



- 1           (ii) Such person does not use an electric public  
2           utility's transmission or distribution lines  
3           to provide, sell, or transmit electricity to  
4           lessees or tenants;
- 5           (iii) At the time that the lease agreement is  
6           signed, the rate charged to the lessee or  
7           tenant for the power generated by the  
8           renewable energy system shall be no greater  
9           than the effective rate charged per kilowatt  
10          hour from the applicable electric utility  
11          schedule filed with the public utilities  
12          commission;
- 13          (iv) The rate schedule or formula shall be  
14          established for the duration of the lease,  
15          and the lease agreement entered into by the  
16          lessee or tenant shall reflect such rate  
17          schedule or formula;
- 18          (v) The lease agreement shall not abrogate any  
19          terms or conditions of applicable tariffs  
20          for termination of services for non-payment  
21          of electric utility services or rules  
22          regarding health, safety, and welfare;





1                   (vi) The lease agreement shall disclose: (1) the  
2                   rate schedule or formula for the duration of  
3                   the lease agreement; (2) that, at the time  
4                   that the lease agreement is signed, the rate  
5                   charged to the lessee or tenant for the  
6                   power generated by the renewable energy  
7                   system shall be no greater than the  
8                   effective rate charged per kilowatt hour  
9                   from the applicable electric utility  
10                  schedule filed with the public utilities  
11                  commission; (3) that the lease agreement  
12                  shall not abrogate any terms or conditions  
13                  of applicable tariffs for termination of  
14                  services for non-payment of electric utility  
15                  services or rules regarding health, safety,  
16                  and welfare; and (4) whether the lease is  
17                  contingent upon the purchase of electricity  
18                  from the renewable energy system; provided  
19                  further that any disputes concerning the  
20                  requirements of this provision shall be  
21                  resolved pursuant to the provisions of the



1                    lease agreement or chapter 521, if  
2                    applicable; and  
3                    (vii) Nothing in this section shall be construed  
4                    to permit wheeling[-]; and  
5                    (O) A person engaged directly or indirectly in  
6                    developing, producing, delivering, participating  
7                    in, or selling interests in a community renewable  
8                    energy facility pursuant to part .

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

18                    SECTION 4. In codifying the new sections added by section  
19                    2 of this Act, the revisor of statutes shall substitute  
20                    appropriate section numbers for the letters used in designating  
21                    the new sections in this Act.



# H.B. NO. 2141

1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2014.

4

INTRODUCED BY: Michelle E. Lovern  
Chen

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# H.B. NO. 2141

**Report Title:**

Community-based Renewable Energy Program; Facilities

**Description:**

Establishes the Hawaii community-based renewable energy program to enable utility customers to participate in a community-based renewable energy facility and benefit from the electricity generated from such a facility. Effective July 1, 2014.

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

