

---

---

# A BILL FOR AN ACT

RELATING TO ENERGY MODERNIZATION.

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

1           SECTION 1. The legislature finds that the use of renewable  
2 energy, advanced distributed energy resources, and energy  
3 efficiency in Hawaii provides significant financial, health,  
4 environmental, and workforce benefits to the State. While  
5 Hawaii is a national leader in developing renewable energy,  
6 distributed energy resources, and energy efficiency, barriers  
7 remain that inhibit the development of microgrids, which is a  
8 rapidly emerging technology that can play a key role in  
9 expanding the use of clean energy to serve persons and buildings  
10 in the State that have been unable to enjoy its benefits.

11           The legislature further finds that a microgrid is generally  
12 defined as a localized electrical system composed of  
13 interconnected loads and distributed energy resources within  
14 clearly defined electrical boundaries. Microgrids can  
15 facilitate the achievement of Hawaii's clean energy policies by  
16 enabling the integration of higher levels of renewable energy  
17 and advanced distributed energy resources, including energy



1 storage and demand response. Microgrids provide significant  
2 benefits to users and non-users, particularly when deployed on  
3 islands. Microgrids:

- 4 (1) Can reduce electricity costs and price volatility in  
5 Hawaii, which suffers from the highest retail electric  
6 rates of any State in the United States, by  
7 encouraging energy diversity and energy independence;
- 8 (2) Improve grid reliability and grid resilience, while  
9 also easing grid congestion;
- 10 (3) Mitigate the impacts of centralized grid disturbances,  
11 including weather-related outages, and associated  
12 economic losses;
- 13 (4) Reduce the use of expensive, imported fossil fuels,  
14 while also reducing air pollution, including  
15 greenhouse-gas emissions;
- 16 (5) Lead to avoided or deferred investments in  
17 transmission and distribution infrastructure,  
18 including those necessary to integrate distributed  
19 energy resources into a centralized grid; and
- 20 (6) Reduce the amount of energy lost during the  
21 transmission and distribution of electricity from



1 centralized generators, yielding reductions in overall  
2 energy consumption.

3 The legislature further finds that cumulative investments  
4 in microgrids in the United States from 2015 through 2020 are  
5 projected to exceed \$3,500,000,000, yielding an estimated 2,800  
6 megawatts of total microgrid capacity. As an island state,  
7 Hawaii is well positioned to take advantage of this rapidly  
8 emerging market and the economic-development opportunities  
9 associated with it.

10 The legislature further finds that the development of  
11 microgrids in Hawaii faces two key barriers. First, local  
12 ordinances could prevent or have the effect of preventing the  
13 development of microgrids. Second, any entity developing a  
14 microgrid serving residents in Hawaii could be subject to  
15 regulations governing a public utility.

16 The purpose of this Act is to encourage and facilitate the  
17 deployment of microgrids in the State in such a manner as to  
18 expand access to locally generated renewable energy and advanced  
19 distributed energy resources and to promote the efficient  
20 distribution of electricity to the State's residents and  
21 businesses by:



1 (1) Prohibiting counties from requiring that buildings  
 2 that are served by a microgrid shall be connected to  
 3 otherwise available sources of electrical power; and

4 (2) Establishing that a microgrid is not a public utility.

5 SECTION 2. Chapter 196, Hawaii Revised Statutes, is  
 6 amended by adding a new section to part III to be appropriately  
 7 designated and to read as follows:

8 "§196- State support for energy modernization. In no  
 9 event shall a county or other political subdivision of the State  
 10 require that a building that is served by a microgrid, as  
 11 defined in section 269-1, be connected to an otherwise available  
 12 source of electrical power."

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

15 1. By inserting a new definition to be appropriately  
 16 inserted and to read:

17 "Microgrid" means a localized electrical system powered by  
 18 a renewable energy system, as defined in this chapter, that may  
 19 include backup energy storage, backup fossil generation, or  
 20 both, to serve interconnected loads of one or more persons or



1 buildings within a discrete electrical boundary and can operate  
2 either independent of or in parallel with the utility grid."

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

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:



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



1                   within the State; provided that the towing,  
2                   salvage, hauling, or carriage is not pursuant to  
3                   either an established schedule or an undertaking  
4                   to perform carriage services on behalf of the  
5                   public generally;

6                   (F) A carrier by water, substantially engaged in  
7                   interstate or foreign commerce, that transports  
8                   passengers on luxury cruises between points  
9                   within the State or on luxury round-trip cruises  
10                  returning to the point of departure;

11                  (G) Any user, owner, or operator of the Hawaii  
12                  electric system as defined under section 269-141;

13                  (H) A telecommunications provider only to the extent  
14                  determined by the public utilities commission  
15                  pursuant to section 269-16.9;

16                  (I) Any person who controls, operates, or manages  
17                  plants or facilities developed pursuant to  
18                  chapter 167 for conveying, distributing, and  
19                  transmitting water for irrigation and other  
20                  purposes for public use and purpose;



- 1           (J) Any person who owns, controls, operates, or  
2           manages plants or facilities for the reclamation  
3           of wastewater; provided that:
- 4           (i) The services of the facility are provided  
5           pursuant to a service contract between the  
6           person and a state or county agency and at  
7           least ten per cent of the wastewater  
8           processed is used directly by the state or  
9           county agency that entered into the service  
10          contract;
- 11          (ii) The primary function of the facility is the  
12          processing of secondary treated wastewater  
13          that has been produced by a municipal  
14          wastewater treatment facility owned by a  
15          state or county agency;
- 16          (iii) The facility does not make sales of water to  
17          residential customers;
- 18          (iv) The facility may distribute and sell  
19          recycled or reclaimed water to entities not  
20          covered by a state or county service  
21          contract; provided that, in the absence of





1 regulatory oversight and direct competition,  
2 the distribution and sale of recycled or  
3 reclaimed water shall be voluntary and its  
4 pricing fair and reasonable. For purposes  
5 of this subparagraph, "recycled water" and  
6 "reclaimed water" means treated wastewater  
7 that by design is intended or used for a  
8 beneficial purpose; and

9 (v) The facility is not engaged, either directly  
10 or indirectly, in the processing of food  
11 wastes;

12 (K) Any person who owns, controls, operates, or  
13 manages any seawater air conditioning district  
14 cooling project; provided that at least fifty per  
15 cent of the energy required for the seawater air  
16 conditioning district cooling system is provided  
17 by a renewable energy resource, such as cold,  
18 deep seawater;

19 (L) Any person who owns, controls, operates, or  
20 manages plants or facilities primarily used to



1 charge or discharge a vehicle battery that  
2 provides power for vehicle propulsion;

3 (M) Any person who:

4 (i) Owns, controls, operates, or manages a  
5 renewable energy system that is located on a  
6 customer's property; and

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

19 (N) Any person who owns, controls, operates, or  
20 manages a renewable energy system that is located  
21 on such person's property and provides, sells, or



1 transmits the power generated from that renewable  
2 energy system to an electric utility or to  
3 lessees or tenants on the person's property where  
4 the renewable energy system is located; provided  
5 that:

6 (i) An interconnection, as defined in section  
7 269-141, is maintained with an electric  
8 public utility to preserve the lessees' or  
9 tenants' ability to be served by an electric  
10 utility;

11 (ii) Such person does not use an electric public  
12 utility's transmission or distribution lines  
13 to provide, sell, or transmit electricity to  
14 lessees or tenants;

15 (iii) At the time that the lease agreement is  
16 signed, the rate charged to the lessee or  
17 tenant for the power generated by the  
18 renewable energy system shall be no greater  
19 than the effective rate charged per kilowatt  
20 hour from the applicable electric utility



1 schedule filed with the public utilities  
2 commission;

3 (iv) The rate schedule or formula shall be  
4 established for the duration of the lease,  
5 and the lease agreement entered into by the  
6 lessee or tenant shall reflect such rate  
7 schedule or formula;

8 (v) The lease agreement shall not abrogate any  
9 terms or conditions of applicable tariffs  
10 for termination of services for nonpayment  
11 of electric utility services or rules  
12 regarding health, safety, and welfare;

13 (vi) The lease agreement shall disclose: (1) the  
14 rate schedule or formula for the duration of  
15 the lease agreement; (2) that, at the time  
16 that the lease agreement is signed, the rate  
17 charged to the lessee or tenant for the  
18 power generated by the renewable energy  
19 system shall be no greater than the  
20 effective rate charged per kilowatt hour  
21 from the applicable electric utility



1 schedule filed with the public utilities  
2 commission; (3) that the lease agreement  
3 shall not abrogate any terms or conditions  
4 of applicable tariffs for termination of  
5 services for nonpayment of electric utility  
6 services or rules regarding health, safety,  
7 and welfare; and (4) whether the lease is  
8 contingent upon the purchase of electricity  
9 from the renewable energy system; provided  
10 further that any disputes concerning the  
11 requirements of this provision shall be  
12 resolved pursuant to the provisions of the  
13 lease agreement or chapter 521, if  
14 applicable; and

15 (vii) Nothing in this section shall be construed  
16 to permit wheeling[-]; and

17 (O) Any person who owns, controls, operates, or  
18 manages a microgrid that is located on a person's  
19 property and provides, sells, or transmits the  
20 power generated from that microgrid to an  
21 electric utility or to the property owner, or the



1           property owner's lessees or tenants, whether  
2           metered or master-metered, on the person's  
3           property where the microgrid is located; provided  
4           that:

5           (i) A person's property shall include all  
6           contiguous property, owned or leased by the  
7           person without regard to interruptions in  
8           contiguity caused by easements, public  
9           thoroughfares, transportation rights-of-way,  
10           and utility rights-of-way;

11           (ii) The person does not use an electric public  
12           utility's transmission or distribution lines  
13           to provide, sell, or transmit electricity;

14           (iii) At the time that any related lease agreement  
15           is signed, the rate charged to any person,  
16           lessee, or tenant for the power generated  
17           and transmitted by the microgrid shall be no  
18           greater than the effective rate charged per  
19           kilowatt hour from the applicable electric  
20           utility schedule filed with the public  
21           utilities commission;



- 1           (iv) The rate schedule or formula shall be  
2           established for the duration of any related  
3           lease, and the lease agreement entered into  
4           by the applicable lessee or tenant shall  
5           reflect the rate schedule or formula;
- 6           (v) Any related lease agreement shall not  
7           abrogate any terms or conditions of  
8           applicable tariffs for the termination of  
9           services for non-payment of electric utility  
10          services or rules regarding health, safety,  
11          and welfare;
- 12          (vi) Any related lease agreement shall disclose  
13          the rate schedule or formula for the  
14          duration of the lease agreement that, at the  
15          time that the lease agreement is signed, the  
16          rate charged to the lessee or tenant for the  
17          power generated and transmitted by the  
18          microgrid shall be no greater than the  
19          effective rate charged per kilowatt hour  
20          from the applicable electric utility  
21          schedule filed with the public utilities



1                   commission. The lease agreement shall not  
2                   abrogate any terms or conditions of  
3                   applicable tariffs for termination of  
4                   services for non-payment of electric utility  
5                   services or rules regarding health, safety,  
6                   and welfare. The lease agreement shall also  
7                   disclose whether the lease is contingent  
8                   upon the purchase of electricity from the  
9                   microgrid; provided further that any  
10                   disputes concerning the requirements of this  
11                   provision shall be resolved pursuant to the  
12                   provisions of the lease agreement or chapter  
13                   521, if applicable; and  
14                   (vii) Nothing in this subparagraph shall be  
15                   construed to permit wheeling.

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





# H.B. NO. 2570

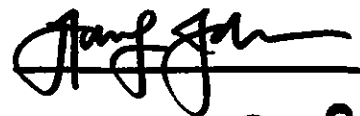
1 certificate issued under this proviso shall nevertheless be  
2 subject to terms and conditions as the public utilities  
3 commission may prescribe, as provided in sections 269-16.9 and  
4 269-20."

5 SECTION 4. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.  
8

INTRODUCED BY: 





Nicole E. Lower

Blakeri

JAN 26 2016



# H.B. NO. 2570

**Report Title:**

Renewable Energy; Microgrids; Public Utilities; Counties

**Description:**

Prohibits counties from requiring buildings served by a microgrid to be connected to an otherwise available source of electrical power. Excludes microgrids from being regulated as public utilities.

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

