H.B. NO. 1163

A BILL FOR AN ACT

RELATING TO ENERGY MODERNIZATION AT THE UNIVERSITY OF HAWAII SYSTEM.

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

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

The legislature further finds that "microgrids", which is generally defined as a localized electrical system composed of interconnected loads and distributed energy resources within clearly defined electrical boundaries, is a positive step toward achieving Hawaii's energy goals. Microgrids can facilitate the achievement of Hawaii's clean energy policies by enabling the integration of higher levels of renewable energy and advanced

distributed energy resources, including energy storage and demand response.

The legislature further finds that the development of microgrids in Hawaii faces two key barriers. First, local ordinances could prevent or have the effect of preventing the development of microgrids. Second, any entity developing a microgrid that serves residents in Hawaii could be subject to regulation by the public utilities commission. It is not the intent of this Act for the public utilities commission to regulate microgrids, especially when such systems could engender great value to isolated and rural areas of our State or provide overriding public benefit in areas such as education, health, housing, transportation and other community service areas.

As such, the legislature finds that the University of Hawaii system is burdened with the high cost of electricity and is the second largest electricity user in the State. In response, the legislature enacted Act 99, Session Laws of Hawaii 2015, which established a collective goal for the University of Hawaii "to become net-zero with respect to energy use, producing as much (renewable) energy as the system consumes across all campuses by January 1, 2035."

The legislature additionally finds that Act 99 is in line with the policy goal of achieving a renewable portfolio standard

of one hundred per cent by 2045 as set forth in Act 97, Session Laws of Hawaii 2015.

The purpose of this Act is to encourage and facilitate the development and use of microgrids at the various campuses and facilities operated by the University of Hawaii in such a manner as to expand access to locally generated renewable energy and advanced distributed energy resources and to promote the efficient distribution of electricity to the State's residents and businesses by exempting microgrids which promote and serve public higher education institutions from regulation as a public utility by the public utilities commission.

SECTION 2. Chapter 304A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§304A- Microgrid project.** (a) Notwithstanding any other law to the contrary, the university is authorized to establish, implement, and operate one or more microgrid projects at or within any properties owned, leased, or controlled by the university.

(b) Nothing in this section shall preclude the university from working with and receiving assistance from any other department or agency in carrying out the purposes of this section.

(c) Notwithstanding any law to the contrary, no electric utility shall be allowed to assess a charge, fee, or penalty of any kind to the university for planning, designing, constructing, or operating a microgrid.

(d) For purposes of this section, a "microgrid" means a localized electrical system with distributed energy resources, operated by the university or one in which the university participates, that is powered by a renewable energy system, as defined in chapter 269, that may include energy storage, generation, or both, to serve interconnected loads of one or more persons or buildings within clearly defined electrical boundaries that acts as a single controllable entity with respect to the grid and that can: (1) include lands and buildings owned or controlled by the university and several adjacent or nearby properties, all having different tax map key designations, and (2) operate either independent of or in parallel with the utility grid."

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

(1) By inserting a new definition to be appropriately inserted and to read as follows:

""Microgrid" means a localized electrical system with distributed energy resources, powered by a renewable energy

system, as defined in this chapter, that may include energy storage, generation, or both, to serve interconnected loads of one or more persons or buildings within clearly defined electrical boundaries that acts as a single controllable entity with respect to the grid and can: (1) include several adjacent or nearby properties having different tax map key designations and (2) operate either independent of or in parallel with the utility grid."

(2) By amending the definition of "public utility" to read as follows:

""Public utility":

(1) Includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use for the transportation of passengers or freight; for the conveyance or transmission of telecommunications messages; for the furnishing of facilities for the transmission of intelligence by electricity within the State or between points within the State by land, water, or air; for the production, conveyance, transmission,

delivery, or furnishing of light, power, heat, cold, water, gas, or oil; for the storage or warehousing of goods; or for the disposal of sewage; provided that the term shall include:

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

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

(2) Shall not include:

(A) An owner or operator of an aerial transportation enterprise;

(B) An owner or operator of a taxicab as defined in this section;

(C) Common carriers that transport only freight on the public highways, unless operating within localities, along routes, or between points that the public utilities commission finds to be inadequately serviced without regulation under this chapter;

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

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

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

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

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

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

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

(i) The services of the facility are provided pursuant to a service contract between the person and a state or county agency and at least ten per cent of the wastewater processed is used directly by the state or county agency that entered into the service contract;

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

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

(iv) The facility may distribute and sell recycled or reclaimed water to entities not covered by a state or county service contract; provided that, in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or

reclaimed water shall be voluntary and its pricing fair and reasonable. For purposes of this subparagraph, "recycled water" and "reclaimed water" means treated wastewater that by design is intended or used for a beneficial purpose; and

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

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

(L) Any person who owns, controls, operates, or manages plants or facilities primarily used to charge or discharge a vehicle battery that provides power for vehicle propulsion;

(M) Any person who:

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

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

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

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

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

(iii) At the time that the lease agreement is signed, the rate charged to the lessee or tenant for the power generated by the renewable energy system shall be no greater than the effective rate charged per kilowatt hour from the applicable electric utility schedule filed with the public utilities commission;

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

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

(vi) The lease agreement shall disclose: (1) the rate schedule or formula for the duration of the lease agreement; (2) that, at the time that the lease agreement is signed, the rate charged to the lessee or tenant for the power generated by the renewable energy system shall be no greater than the effective rate charged per kilowatt hour from the applicable electric utility schedule filed with the public utilities commission; (3) that the lease agreement shall not abrogate any terms or conditions of applicable tariffs for termination of services for nonpayment of electric utility services or rules regarding health, safety, and welfare; and (4) whether the lease is contingent upon the purchase of electricity from the renewable energy system; provided

further that any disputes concerning the requirements of this provision shall be resolved pursuant to the provisions of the lease agreement or chapter 521, if applicable; and

(vii) Nothing in this section shall be construed to permit wheeling[~~.~~] and

(O) Any public higher education institution that owns, controls, operates, or manages a microgrid that is located at least partially upon or within the institution's property and provides, sells, or transmits the power generated from that microgrid to an electric utility or other government or private entity users on or within properties adjacent to or nearby the institution's property, whether metered or master-metered; provided that:

(i) The institution's property shall include all contiguous property, owned, leased, or otherwise controlled by the institution without regard to interruptions in contiguity caused by easements, public

thoroughfares, transportation rights-of-way, and utility rights-of-way;

(ii) The microgrid in which the institution is participating makes only limited use of an electric public utility's transmission or distribution lines to provide, sell, or transmit electricity, meaning that the institution only requires the electric utility to install and operate electric lines and facilities to transport electricity from the power source to the microgrid and the microgrid users' electrical systems;

(iii) The rate charged to any person, lessee, or tenant of the institution or any participant in the microgrid for the power generated and transmitted by the microgrid shall be no greater than the effective rate charged per kilowatt hour from the applicable electric utility schedule filed with and approved by the public utilities commission;

(iv) Transmittal of electricity within the area covered by the microgrid, particularly from

the power source to the microgrid and its users' electrical systems, will be permitted by the applicable electrical utility if the entire microgrid area is within lands owned or controlled by the State of Hawaii, inclusive of the university and all State of Hawaii government agencies, bodies, entities, boards, and commissions, or (1) does not exceed a total area of _____ acres, (2) does not require the electric utility to transport electricity more than five miles from the power source to the microgrid and the microgrid users' electrical systems microgrid users, and (3) all microgrid users within the microgrid area enter into or execute agreements confirming their commitment to establish and operate the microgrid and comply with all applicable rules, terms, conditions, covenants, and restrictions relating thereto.

(v) An electric utility may not charge microgrids standby service rates or similar fees and charges for interconnection into

the electric utility system; provided that the educational institution shall pay to the electric utility at established rates filed with and approved by the public utilities commission: (1) charges for the use of any electricity from the electric utility and (2) either lease rent or similar charge for the use of or the cost to install electric lines and facilities to transport electricity from the power source to the microgrid and the microgrid users' electrical systems.

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

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

SECTION 5. This Act, upon its approval, shall take effect on July 1, 2017.

INTRODUCED BY: _____

BY REQUEST

JAN 23 2017

H.B. NO. 1163

Report Title:
University of Hawaii; Microgrid

Description:
Exempt microgrids that promote and serve public higher education institutions from regulation as a public utility by the Public Utilities Commission; add a definition for "microgrid".

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

HB 1163

JUSTIFICATION SHEET

DEPARTMENT: University of Hawaii

TITLE: RELATING TO ENERGY MODERNIZATION AT THE UNIVERSITY OF HAWAII SYSTEM.

PURPOSE: To exempt microgrids that promote and serve public higher education institutions from regulation as a public utility by the Public Utilities Commission; add a definition for "microgrid".

MEANS: Add a new section to chapter 304A, Hawaii Revised Statutes (HRS), and amend section 269-1, HRS.

JUSTIFICATION: Act 99, Session Laws of Hawaii 2015, established a goal for the University of Hawaii (UH) to become net-zero, with respect to energy use, by producing as much renewable energy as may be needed to support UH campuses by January 1, 2035. This goal is consistent with the State's overall policy goal of achieving a 100 per cent renewable energy portfolio standard by 2045.

While Hawaii is a national leader in developing renewable energy, barriers remain that inhibit the development of microgrids, which is a rapidly emerging technology that can use renewable energy as the primary power source. Microgrids can play a key role in expanding the availability of clean energy to serve persons and buildings in the State that have so far been unable to enjoy its benefits.

Two key barriers to the development of microgrids in Hawaii include: (1) existing statutes, ordinances, and rules that could prevent or have the effect of preventing the development of microgrids and (2) potential regulation of microgrids as public utilities

by the Public Utilities Commission. Microgrids are expected to make the use of renewable energy more readily available to the University and other users.

The purpose of this Act is to encourage and facilitate the development and use of microgrids and renewable energy at various University campuses and facilities. The Act seeks to achieve this purpose by: (a) expanding access to locally generated renewable energy and advanced distributed energy resources and (b) exempting microgrids that serve public higher education institutions from regulation as a public utility by the Public Utility Commission.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: UOH-800, UOH-700, UOH-100.

OTHER AFFECTED AGENCIES: Public Utilities Commission.

EFFECTIVE DATE: July 1, 2017.