
A BILL FOR AN ACT

RELATING TO ENERGY MODERNIZATION AT THE DEPARTMENT OF EDUCATION.

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 barriers remain that inhibit the development of microgrids, a
7 rapidly emerging technology that can play a key role in
8 expanding the use of clean energy to serve persons and buildings
9 in the State that have been unable to enjoy its benefits.

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



1 distributed energy resources, including energy storage and
2 demand response.

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

14 The purpose of this Act is to encourage and facilitate the
15 development and use of microgrids at the various schools and
16 facilities operated by the department of education in such a
17 manner as to expand access to locally generated renewable energy
18 and advanced distributed energy resources and to promote the
19 efficient distribution of electricity to the State's residents
20 and businesses by exempting microgrids that promote and serve



1 public schools from regulation as a public utility by the public
2 utilities commission.

3 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§302A- Microgrid project. (a) Notwithstanding any
7 other law to the contrary, the department of education may
8 establish, implement, and operate one or more microgrid projects
9 at or within any properties owned, leased, or controlled by the
10 department.

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

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

19 (d) As used in this section, a "microgrid" means a
20 localized electrical system with distributed energy resources,
21 operated by the department or one in which the department



1 participates, that is powered by a renewable energy system, as
2 defined in chapter 269, that may include energy storage,
3 generation, or both, to serve interconnected loads of one or
4 more persons or buildings within clearly defined electrical
5 boundaries that acts as a single controllable entity with
6 respect to the grid and that may:

- 7 (1) Include lands and buildings owned or controlled by the
8 department and several adjacent or nearby properties,
9 all having different tax map key designations; and
10 (2) Operate either independently of or in parallel with
11 the utility grid."

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

14 1. By adding a new definition to be appropriately inserted
15 and to read:

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



1 electrical boundaries that acts as a single controllable entity
2 with respect to the grid and may:

- 3 (1) Include several adjacent or nearby properties having
4 different tax map key designations; and
- 5 (2) Operate either independently of or in parallel with
6 the utility grid."

7 2. By amending the definition of "public utility" to read:
8 ""Public utility":

- 9 (1) Includes every person who may own, control, operate,
10 or manage as owner, lessee, trustee, receiver, or
11 otherwise, whether under a franchise, charter,
12 license, articles of association, or otherwise, any
13 plant or equipment, or any part thereof, directly or
14 indirectly for public use for the transportation of
15 passengers or freight; for the conveyance or
16 transmission of telecommunications messages; for the
17 furnishing of facilities for the transmission of
18 intelligence by electricity within the State or
19 between points within the State by land, water, or
20 air; for the production, conveyance, transmission,
21 delivery, or furnishing of light, power, heat, cold,



1 water, gas, or oil; for the storage or warehousing of
2 goods; or for the disposal of sewage; provided that
3 the term shall include:

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

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

8 (2) Shall not include:

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

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

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

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



- 1 (E) A carrier by water to the extent that the carrier
2 enters into private contracts for towage,
3 salvage, hauling, or carriage between points
4 within the State; provided that the towing,
5 salvage, hauling, or carriage is not pursuant to
6 either an established schedule or an undertaking
7 to perform carriage services on behalf of the
8 public generally;
- 9 (F) A carrier by water, substantially engaged in
10 interstate or foreign commerce, that transports
11 passengers on luxury cruises between points
12 within the State or on luxury round-trip cruises
13 returning to the point of departure;
- 14 (G) Any user, owner, or operator of the Hawaii
15 electric system as defined under section 269-141;
- 16 (H) A telecommunications provider only to the extent
17 determined by the public utilities commission
18 pursuant to section 269-16.9;
- 19 (I) Any person who controls, operates, or manages
20 plants or facilities developed pursuant to
21 chapter 167 for conveying, distributing, and



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- 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



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

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

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



- 1 (L) Any person who owns, controls, operates, or
- 2 manages plants or facilities primarily used to
- 3 charge or discharge a vehicle battery that
- 4 provides power for vehicle propulsion;
- 5 (M) Any person who:
- 6 (i) Owns, controls, operates, or manages a
- 7 renewable energy system that is located on a
- 8 customer's property; and
- 9 (ii) Provides, sells, or transmits the power
- 10 generated from that renewable energy system
- 11 to an electric utility or to the customer on
- 12 whose property the renewable energy system
- 13 is located; provided that, for purposes of
- 14 this subparagraph, a customer's property
- 15 shall include all contiguous property owned
- 16 or leased by the customer without regard to
- 17 interruptions in contiguity caused by
- 18 easements, public thoroughfares,
- 19 transportation rights-of-way, and utility
- 20 rights-of-way; [and]



1 (N) Any person who owns, controls, operates, or
2 manages a renewable energy system that is located
3 on such person's property and provides, sells, or
4 transmits the power generated from that renewable
5 energy system to an electric utility or to
6 lessees or tenants on the person's property where
7 the renewable energy system is located; provided
8 that:
9 (i) An interconnection, as defined in section
10 269-141, is maintained with an electric
11 public utility to preserve the lessees' or
12 tenants' ability to be served by an electric
13 utility;
14 (ii) Such person does not use an electric public
15 utility's transmission or distribution lines
16 to provide, sell, or transmit electricity to
17 lessees or tenants;
18 (iii) At the time that the lease agreement is
19 signed, the rate charged to the lessee or
20 tenant for the power generated by the
21 renewable energy system shall be no greater



1 than the effective rate charged per kilowatt
2 hour from the applicable electric utility
3 schedule filed with the public utilities
4 commission;

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

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

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



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

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

19 (O) Any public school that owns, controls, operates,
20 or manages a microgrid that is located at least
21 partially upon or within the school's property



1 and provides, sells, or transmits the power
2 generated from that microgrid to an electric
3 utility or other government or private entity
4 users on or within properties adjacent to or
5 nearby the school's property, whether metered or
6 master-metered; provided that:

7 (i) The department of education's property shall
8 include all contiguous property, owned,
9 leased, or otherwise controlled by the
10 department without regard to interruptions
11 in contiguity caused by easements, public
12 thoroughfares, transportation rights-of-way,
13 and utility rights-of-way;

14 (ii) The microgrid in which the department of
15 education is participating makes only
16 limited use of an electric public utility's
17 transmission or distribution lines to
18 provide, sell, or transmit electricity,
19 meaning that the department only requires
20 the electric utility to install and operate
21 electric lines and facilities to transport



1 electricity from the power source to the
2 microgrid and the microgrid users'
3 electrical systems;
4 (iii) The rate charged to any person, lessee, or
5 tenant of the department of education or any
6 participant in the microgrid for the power
7 generated and transmitted by the microgrid
8 shall be no greater than the effective rate
9 charged per kilowatt hour from the
10 applicable electric utility schedule filed
11 with and approved by the public utilities
12 commission;
13 (iv) Transmittal of electricity within the area
14 covered by the microgrid, particularly from
15 the power source to the microgrid and its
16 users' electrical systems, shall be
17 permitted by the applicable electrical
18 utility if the entire microgrid area is
19 within lands owned or controlled by the
20 State of Hawaii, inclusive of the department
21 of education and all State of Hawaii



1 government agencies, bodies, entities,
2 boards, and commissions, or (1) does not
3 exceed a total area of acres, (2)
4 does not require the electric utility to
5 transport electricity more than five miles
6 from the power source to the microgrid and
7 the microgrid users' electrical systems
8 microgrid users, and (3) all microgrid
9 users within the microgrid area enter into
10 or execute agreements confirming their
11 commitment to establish and operate the
12 microgrid and comply with all applicable
13 rules, terms, conditions, covenants, and
14 restrictions relating thereto;

15 (v) An electric utility may not charge
16 microgrids standby service rates or similar
17 fees and charges for interconnection into
18 the electric utility system; provided that
19 the department of education shall pay the
20 electric utility at established rates filed
21 with and approved by the public utilities



1 commission: (1) charges for the use of any
2 electricity from the electric utility and
3 (2) either lease rent or similar charge for
4 the use of or the cost to install electric
5 lines and facilities to transport
6 electricity from the power source to the
7 microgrid and the microgrid users'
8 electrical systems.

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, as provided in sections 269-16.9 and
18 269-20."

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



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

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INTRODUCED BY:

BY REQUEST

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JAN 24 2017



H.B. NO. 1280

Report Title:

Department of Education; Microgrid

Description:

Facilitates development and use of electric microgrids powered by renewable energy and operated by the Department of Education at public schools and other properties of the Department, by exempting them from regulation as a public utility by the Public Utilities Commission. Adds 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.

