

---

---

# 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 hydrogen can be  
2 produced from diverse domestic resources with the potential for  
3 near-zero greenhouse gas emissions. Once produced, hydrogen  
4 generates electrical power in a fuel cell, emitting only water  
5 vapor and warm air, and holds promise for growth in the  
6 stationary and transportation energy sectors. Additionally,  
7 hydrogen can be produced domestically from resources like  
8 natural gas and renewable sources like solar energy, wind, and  
9 biomass. When used to power highly efficient fuel cell electric  
10 vehicles, hydrogen has enormous potential for strengthening  
11 national energy security, conserving petroleum, and diversifying  
12 the State's transportation energy options for a more resilient  
13 system.

14           The purpose of this Act is to authorize independent  
15 generators of renewable energy to wheel the renewable energy  
16 transmitted and used to produce hydrogen, subject to certain  
17 conditions determined by the public utilities commission.



1 SECTION 2. Chapter 269, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§269- Hydrogen; renewable energy; wheeling. (a)

5 Independent renewable energy generators may engage in retail  
6 wheeling of the renewable energy produced at their own  
7 facilities and transmitted and used to produce hydrogen;  
8 provided that a third-party electric utility whose transmission  
9 lines, distribution lines, and other facilities are utilized for  
10 retail wheeling shall be fairly compensated at an appropriate  
11 rate in accordance with a renewable energy tariff adopted by the  
12 public utilities commission.

13 (b) No later than December 31, 2024, the public utilities  
14 commission shall establish any necessary rules, pursuant to  
15 chapter 91, to implement this section, including any appropriate  
16 rate to charge the independent renewable energy generator or  
17 user of renewable energy in the production of hydrogen.

18 (c) For the purposes of this section, "retail wheeling"  
19 means the transmission of electric power from an independent  
20 renewable energy generator's point of generation over existing  
21 transmission lines, distribution lines, and other facilities of



1 a third-party electric public utility to the facilities of a  
2 user of renewable energy to produce hydrogen."

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

6 ""Public utility":

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



1 goods; or for the disposal of sewage; provided that  
2 the term shall include:

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

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

7 (2) Shall not include:

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

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

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

18 (D) Persons engaged in the business of warehousing or  
19 storage unless the commission finds that  
20 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



1 transmitting water for irrigation and other  
2 purposes for public use and purpose;

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

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

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

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

20 (iv) The facility may distribute and sell  
21 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; and

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



1 effective rate charged per kilowatt hour  
2 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].~~

19 If the application of this chapter is ordered by the  
20 commission in any case provided in paragraph (2) (C), (D), (H),  
21 and (I), the business of any public utility that presents



1 evidence of bona fide operation on the date of the commencement  
2 of the proceedings resulting in the order shall be presumed to  
3 be necessary to the public convenience and necessity, but any  
4 certificate issued under this proviso shall nevertheless be  
5 subject to terms and conditions as the public utilities  
6 commission may prescribe, as provided in sections 269-16.9 and  
7 269-20."

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

10 SECTION 5. This Act shall take effect upon its approval.

11

INTRODUCED BY:

  
\_\_\_\_\_

JAN 19 2024



# H.B. NO. 1996

**Report Title:**

Public Utilities Commission; Retail Wheeling; Renewable Energy;  
Hydrogen

**Description:**

Authorizes independent generators of renewable energy to wheel the renewable energy transmitted and used to produce hydrogen, subject to certain conditions determined by the public utilities commission.

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

