

JAN 24 2024

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# A BILL FOR AN ACT

RELATING TO ENERGY.

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

1           SECTION 1. The legislature finds that despite its goal to  
2 achieve one hundred per cent renewable energy by 2045, the State  
3 continues to depend heavily upon imported petroleum for its  
4 energy needs, using approximately the same amount of fossil fuel  
5 for electricity generation in 2023 as 2010, falling short of its  
6 ambitious renewable energy goals.

7           The legislature also finds that renewable energy can be an  
8 economic driver of jobs, including short-term and long-term  
9 positions, and an incentive for large-scale, sustainable, and  
10 clean industries to consider relocation of, or commencement of  
11 business operations in, the State. Presently, the State has the  
12 highest cost of energy in the nation according to the May 2023  
13 Energy Information Administration average residential sector  
14 retail electricity price chart. Incentivizing diversification  
15 of the State's economy through clean energy industries would  
16 alleviate certain energy costs for Hawaii's people.



1           Additionally, the tragic events that occurred in the 2023  
2 Lahaina wildfires is an example of how vulnerable communities  
3 can be to natural and manmade disasters, including the resulting  
4 lack of water, internet, and communications due to the reliance  
5 on a centralized grid. The current and frequent rolling  
6 blackouts occurring across the State leave communities exposed  
7 to national and energy security risks. The lack of resilient,  
8 reliable electricity also exposes the State's economic drivers  
9 in key visitor, travel, and defense industries.

10           The centralized utility has been slow to issue requests for  
11 proposals to increase the number of new renewable energy  
12 opportunities, to adopt decentralized microgrids that can help  
13 mitigate reliability issues and bring in competition and promote  
14 jobs. Additionally, with the decarbonization and renewable  
15 energy usage goals of the State set forth in Act 97, Session  
16 Laws of Hawaii 2015, it is imperative that the State prioritize  
17 clean energy resources to achieve its mandate. The legislature  
18 also finds that renewable fuels and hydrogen produced by  
19 renewable energy for transportation, aviation, and the gas  
20 utility is increasingly necessary to transport the renewable



1 electricity to the production facility of the renewable fuels  
2 and hydrogen on another tax map parcel.

3       The legislature further finds that the production of clean  
4 electricity may be encouraged if independent generators of clean  
5 electricity can engage in retail wheeling to keep one of the  
6 highest costs of business at a reasonable rate. Retail wheeling  
7 occurs when electric power is transmitted from one independent  
8 generator of renewable energy to users of renewable energy over  
9 the transmission lines of a third-party electric public utility.  
10 Through retail wheeling, users of renewable energy, including  
11 affordable housing developments, the State, and the counties,  
12 could acquire clean electricity by purchasing it from a clean  
13 electricity project developer, then transmitting the clean  
14 electricity across utility lines owned and maintained by a  
15 third-party electric public utility, while fairly compensating  
16 the third-party utility for utilizing its existing  
17 infrastructure. States across the nation have recognized this  
18 fact and have accordingly authorized it.

19       Therefore, the purpose of this Act is to authorize  
20 independent generators of renewable energy to wheel the



1 renewable electricity they produce under administrative rules  
2 established by the public utilities commission.

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

6 "§269- Retail wheeling; renewable energy; rules. (a)  
7 Independent renewable energy generators may engage in retail  
8 wheeling the renewable electricity.

9 (b) No later than December 31, 2024, the public utilities  
10 commission shall establish, by rule or order, policies and  
11 procedures to implement retail wheeling, including any  
12 appropriate rate to charge the renewable electricity project  
13 developer, independent renewable energy generator, or user of  
14 renewable energy for retail wheeling.

15 (c) The public utilities commission shall submit a report  
16 of its findings and recommendations on retail wheeling to the  
17 legislature no later than twenty days prior to the convening of  
18 the regular session of 2026.

19 (d) The public utilities commission shall evaluate the  
20 need to adopt customer protection measures.



1        (e) For the purposes of this section, "retail wheeling"  
2 means the transmission of electric power from an independent  
3 renewable energy generators' point of generation over  
4 transmission lines, distribution lines, and other facilities of  
5 a third-party electric public utility to the facilities of a  
6 user of renewable energy."

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

10        ""Public utility":

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



1 air; for the production, conveyance, transmission,  
2 delivery, or furnishing of light, power, heat, cold,  
3 water, gas, or oil; for the storage or warehousing of  
4 goods; or for the disposal of sewage; provided that  
5 the term shall include:

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

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

10 (2) Shall not include:

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

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

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



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



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

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

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

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





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

3 (iv) The facility may distribute and sell  
4 recycled or reclaimed water to entities not  
5 covered by a state or county service  
6 contract; provided that, in the absence of  
7 regulatory oversight and direct competition,  
8 the distribution and sale of recycled or  
9 reclaimed water shall be voluntary and its  
10 pricing fair and reasonable. For purposes  
11 of this subparagraph, "recycled water" and  
12 "reclaimed water" means treated wastewater  
13 that by design is intended or used for a  
14 beneficial purpose; and

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

18 (K) Any person who owns, controls, operates, or  
19 manages any seawater air conditioning district  
20 cooling project; provided that at least fifty per  
21 cent of the energy required for the seawater air



1 conditioning district cooling system is provided  
2 by a renewable energy resource, such as cold,  
3 deep seawater;

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

8 (M) Any person who:

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

12 (ii) Provides, sells, or transmits the power  
13 generated from that renewable energy system  
14 to an electric utility or to the customer on  
15 whose property the renewable energy system  
16 is located; provided that, for purposes of  
17 this subparagraph, a customer's property  
18 shall include all contiguous property owned  
19 or leased by the customer without regard to  
20 interruptions in contiguity caused by  
21 easements, public thoroughfares,



1 transportation rights-of-way, and utility  
2 rights-of-way; and

3 (N) Any person who owns, controls, operates, or  
4 manages a renewable energy system that is located  
5 on [~~such~~] the person's property and provides,  
6 sells, or transmits the power generated from that  
7 renewable energy system to an electric utility or  
8 to lessees or tenants on the person's property  
9 where the renewable energy system is located;  
10 provided that:

11 (i) An interconnection, as defined in section  
12 269-141, is maintained with an electric  
13 public utility to preserve the lessees' or  
14 tenants' ability to be served by an electric  
15 utility;

16 (ii) [~~Such~~] The person does not use an electric  
17 public utility's transmission or  
18 distribution lines to provide, sell, or  
19 transmit electricity to lessees or tenants;

20 (iii) At the time that the lease agreement is  
21 signed, the rate charged to the lessee or



1                   tenant for the power generated by the  
2                   renewable energy system shall be no greater  
3                   than the effective rate charged per kilowatt  
4                   hour from the applicable electric utility  
5                   schedule filed with the public utilities  
6                   commission;

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

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

17                  (vi) The lease agreement shall disclose: (1) the  
18                  rate schedule or formula for the duration of  
19                  the lease agreement; (2) that, at the time  
20                  that the lease agreement is signed, the rate  
21                  charged to the lessee or tenant for the



1 power generated by the renewable energy  
2 system shall be no greater than the  
3 effective rate charged per kilowatt hour  
4 from the applicable electric utility  
5 schedule filed with the public utilities  
6 commission; (3) that the lease agreement  
7 shall not abrogate any terms or conditions  
8 of applicable tariffs for termination of  
9 services for nonpayment of electric utility  
10 services or rules regarding health, safety,  
11 and welfare; and (4) whether the lease is  
12 contingent upon the purchase of electricity  
13 from the renewable energy system; provided  
14 further that any disputes concerning the  
15 requirements of this provision shall be  
16 resolved pursuant to the provisions of the  
17 lease agreement or chapter 521, if  
18 applicable [~~and~~  
19 ~~(vii) Nothing in this section shall be construed~~  
20 ~~to permit wheeling].~~

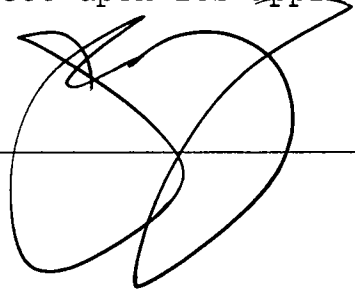


1           If the application of this chapter is ordered by the  
2 commission in any case provided in paragraph (2)(C), (D), (H),  
3 and (I), the business of any public utility that presents  
4 evidence of bona fide operation on the date of the commencement  
5 of the proceedings resulting in the order shall be presumed to  
6 be necessary to the public convenience and necessity, but any  
7 certificate issued under this proviso shall nevertheless be  
8 subject to terms and conditions as the public utilities  
9 commission may prescribe, as provided in sections 269-16.9 and  
10 269-20."

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

13           SECTION 5. This Act shall take effect upon its approval.  
14

INTRODUCED BY: \_\_\_\_\_




# S.B. NO. 3194

**Report Title:**

PUC; Retail Wheeling; Renewable Energy; Clean Electricity

**Description:**

Authorizes independent generators of renewable energy to wheel the renewable electricity they produce to users of renewable energy under administrative rules established 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.*

