
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 in 2010, falling short of
6 the State's 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 to, 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 United States Energy Information Administration's average
14 residential sector retail electricity price chart.
15 Incentivizing diversification of the State's economy through
16 clean energy industries would alleviate certain energy costs for
17 Hawaii's residents.



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

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



1 transport the renewable electricity to the production facility
2 of the renewable fuels 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 Accordingly, the purpose of this Act is to authorize
20 independent generators of renewable energy to wheel the
21 renewable electricity they produce under administrative rules



1 established by the public utilities commission, should the
2 public utilities commission determine that retail wheeling is in
3 the public interest.

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

7 "§269- Retail wheeling; renewable energy; rules. (a)

8 Independent renewable energy generators may engage in retail
9 wheeling of renewable electricity subject to subsection (b).

10 (b) No later than December 31, 2025, the public utilities
11 commission shall determine whether retail wheeling is in the
12 public interest and, if determined to be in the public interest,
13 shall establish, by rule or order, policies and procedures to
14 implement retail wheeling, including any appropriate rate to
15 charge the renewable electricity project developer, independent
16 renewable energy generator, or user of renewable energy for
17 retail wheeling.

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



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

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

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

12 ""Public utility":

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



1 intelligence by electricity within the State or
2 between points within the State by land, water, or
3 air; for the production, conveyance, transmission,
4 delivery, or furnishing of light, power, heat, cold,
5 water, gas, or oil; for the storage or warehousing of
6 goods; or for the disposal of sewage; provided that
7 the term shall include:

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

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

12 (2) Shall not include:

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

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

17 (C) Common carriers that transport only freight on
18 the public highways, unless operating within
19 localities, along routes, or between points that
20 the public utilities commission finds to be



- 1 inadequately serviced without regulation under
2 this chapter;
- 3 (D) Persons engaged in the business of warehousing or
4 storage unless the commission finds that
5 regulation is necessary in the public interest;
- 6 (E) A carrier by water to the extent that the carrier
7 enters into private contracts for towage,
8 salvage, hauling, or carriage between points
9 within the State; provided that the towing,
10 salvage, hauling, or carriage is not pursuant to
11 either an established schedule or an undertaking
12 to perform carriage services on behalf of the
13 public generally;
- 14 (F) A carrier by water, substantially engaged in
15 interstate or foreign commerce, that transports
16 passengers on luxury cruises between points
17 within the State or on luxury round-trip cruises
18 returning to the point of departure;
- 19 (G) Any user, owner, or operator of the Hawaii
20 electric system as defined under section 269-141;



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

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

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

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

19 (ii) The primary function of the facility is the
20 processing of secondary treated wastewater
21 that has been produced by a municipal



1 wastewater treatment facility owned by a
2 state or county agency;

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

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

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

20 (K) Any person who owns, controls, operates, or
21 manages any seawater air conditioning district



1 cooling project; provided that at least fifty per
2 cent of the energy required for the seawater air
3 conditioning district cooling system is provided
4 by a renewable energy resource, such as cold,
5 deep seawater;

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

10 (M) Any person who:

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

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



1 interruptions in contiguity caused by
2 easements, public thoroughfares,
3 transportation rights-of-way, and utility
4 rights-of-way; and

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

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

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



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



1 that the lease agreement is signed, the rate
2 charged to the lessee or tenant for the
3 power generated by the renewable energy
4 system shall be no greater than the
5 effective rate charged per kilowatt hour
6 from the applicable electric utility
7 schedule filed with the public utilities
8 commission; (3) that the lease agreement
9 shall not abrogate any terms or conditions
10 of applicable tariffs for termination of
11 services for nonpayment of electric utility
12 services or rules regarding health, safety,
13 and welfare; and (4) whether the lease is
14 contingent upon the purchase of electricity
15 from the renewable energy system; provided
16 further that any disputes concerning the
17 requirements of this provision shall be
18 resolved pursuant to the provisions of the
19 lease agreement or chapter 521, if
20 applicable[;—and



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

3 If the application of this chapter is ordered by the
4 commission in any case provided in paragraph (2)(C), (D), (H),
5 and (I), the business of any public utility that presents
6 evidence of bona fide operation on the date of the commencement
7 of the proceedings resulting in the order shall be presumed to
8 be necessary to the public convenience and necessity, but any
9 certificate issued under this proviso shall nevertheless be
10 subject to terms and conditions as the public utilities
11 commission may prescribe, as provided in sections 269-16.9 and
12 269-20."

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

15 SECTION 5. This Act shall take effect on January 1, 2060.



Report Title:

PUC; Retail Wheeling; Renewable Energy; Clean Electricity;
Report

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, should the Public Utilities Commission determine that retail wheeling is in the public interest. Requires the Public Utilities Commission to report to the Legislature. Takes effect 1/1/2060. (SD2)

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

