

JAN 24 2024

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



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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



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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



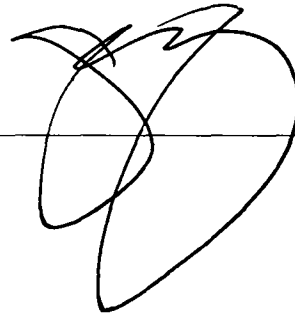
1 evidence of bona fide operation on the date of the commencement
2 of the proceedings resulting in the order shall be presumed to
3 be necessary to the public convenience and necessity, but any
4 certificate issued under this proviso shall nevertheless be
5 subject to terms and conditions as the public 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: _____

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom, positioned over the line following "INTRODUCED BY:".

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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.

