
A BILL FOR AN ACT

RELATING TO ENERGY MODERNIZATION.

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

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



1 storage and demand response. Microgrids provide significant
2 benefits to users and non-users, particularly when deployed on
3 islands. Microgrids:

- 4 (1) Can reduce electricity costs and price volatility in
5 Hawaii, which suffers from the highest retail electric
6 rates of any state in the United States, by
7 encouraging energy diversity and energy independence;
- 8 (2) Improve grid reliability and grid resilience, while
9 also easing grid congestion;
- 10 (3) Mitigate the impacts of centralized grid disturbances,
11 including weather-related outages, and associated
12 economic losses;
- 13 (4) Reduce the use of expensive, imported fossil fuels,
14 while also reducing air pollution, including
15 greenhouse-gas emissions;
- 16 (5) Lead to avoided or deferred investments in
17 transmission and distribution infrastructure,
18 including those necessary to integrate distributed
19 energy resources into a centralized grid; and
- 20 (6) Reduce the amount of energy lost during the
21 transmission and distribution of electricity from



1 centralized generators, yielding reductions in overall
2 energy consumption.

3 The legislature further finds that cumulative investments
4 in microgrids in the United States from 2015 through 2020 are
5 projected to exceed \$3,500,000,000, yielding an estimated 2,800
6 megawatts of total microgrid capacity. As an island state,
7 Hawaii is well positioned to take advantage of this rapidly
8 emerging market and the economic-development opportunities
9 associated with it.

10 The legislature further finds that the development of
11 microgrids in Hawaii faces two key barriers. First, local
12 ordinances could prevent or have the effect of preventing the
13 development of microgrids. Second, any entity developing a
14 microgrid serving residents in Hawaii could be subject to
15 regulations governing a public utility. It is not the intent of
16 this Act for the public utilities commission to regulate smaller
17 microgrids, especially when such systems could be put to great
18 use in isolated and rural areas.

19 The purpose of this Act is to encourage and facilitate the
20 deployment of microgrids in the State in such a manner as to
21 expand access to locally generated renewable energy and advanced



1 distributed energy resources and to promote the efficient
2 distribution of electricity to the State's residents and
3 businesses by:

4 (1) Prohibiting counties from requiring that buildings
5 that are served by a microgrid shall be connected to
6 otherwise available sources of electrical power; and

7 (2) Establishing that a microgrid is not a public utility.

8 SECTION 2. Chapter 196, Hawaii Revised Statutes, is
9 amended by adding a new section to part III to be appropriately
10 designated and to read as follows:

11 "§196- State support for energy modernization. In no
12 event shall a county or other political subdivision of the State
13 require that a building that is served by a microgrid, as
14 defined in section 269-1, be connected to an otherwise available
15 source of electrical power."

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

18 1. By inserting a new definition to be appropriately
19 inserted and to read:

20 "Microgrid" means a localized electrical system powered by
21 a renewable energy system, as defined in this chapter, that may



1 include backup energy storage, backup fossil generation, or
2 both, to serve interconnected loads of one or more persons or
3 buildings within a discrete electrical boundary and can operate
4 either independent of or in parallel with the utility grid."

5 2. By amending the definition of "public utility" to read:

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;

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[-]; and

19 (O) Any person who owns, controls, operates, or
 20 manages a microgrid under twenty-five kilowatts
 21 that is located on a person's property and



1 provides, sells, or transmits the power generated
2 from that microgrid to an electric utility or to
3 the property owner, or the property owner's
4 lessees or tenants, whether metered or master-
5 metered, on the person's property where the
6 microgrid is located; provided that:

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

13 (ii) The person does not use an electric public
14 utility's transmission or distribution lines
15 to provide, sell, or transmit electricity;

16 (iii) At the time that any related lease agreement
17 is signed, the rate charged to any person,
18 lessee, or tenant for the power generated
19 and transmitted by the microgrid shall be no
20 greater than the effective rate charged per
21 kilowatt hour from the applicable electric

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



1 from the applicable electric utility
2 schedule filed with the public utilities
3 commission. The lease agreement shall not
4 abrogate any terms or conditions of
5 applicable tariffs for termination of
6 services for non-payment of electric utility
7 services or rules regarding health, safety,
8 and welfare. The lease agreement shall also
9 disclose whether the lease is contingent
10 upon the purchase of electricity from the
11 microgrid; provided further that any
12 disputes concerning the requirements of this
13 provision shall be resolved pursuant to the
14 provisions of the lease agreement or chapter
15 521, if applicable; and

16 (vii) Nothing in this subparagraph shall be
17 construed to permit wheeling.

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



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

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

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



Report Title:

Renewable Energy; Microgrids; Public Utilities; Counties

Description:

Prohibits counties from requiring buildings served by a microgrid to be connected to an otherwise available source of electrical power. Excludes microgrids from being regulated as public utilities. (HB2570 HD1)

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