A BILL FOR AN ACT
RELATING TO COMMUNITY-BASED RENEWABLE ENERGY.

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

SECTION 1. The legislature finds that all Hawaii residents should be able to participate in and enjoy the economic, environmental, and societal benefits of renewable energy. Spurred by the Hawaii clean energy initiative and increasingly affordable clean energy options, such as solar photovoltaic, localized renewable energy generation technology has become increasingly attainable for all types of consumers over the past several years.

While the amount of residential solar energy use statewide doubled in 2012, many individuals and households are currently unable to directly participate in renewable energy because of their location, building type, access to the electric utility grid, and other impediments.

The community-based renewable energy program seeks to rectify this inequity by dramatically expanding the market for eligible renewable energy resources to include residential and commercial renters, residential and commercial buildings with shaded or improperly oriented roofs, and other groups who are
unable to access the benefits of onsite generation. The legislature finds that it is in the public interest to promote broader participation in self-generation by Hawaii residents, public agencies, and businesses by the development of community renewable energy facilities in which participants are entitled to generate electricity and receive credit for that electricity on their utility bills.

Community-based renewable energy creates new construction jobs, stimulates the economy, reduces emissions of greenhouse gases, promotes energy independence, and will assist in meeting the State's clean energy goals. Further, community-based renewable energy will enable schools, colleges, universities, local governments, businesses and consumers to save money on their electricity bills, thereby helping to fund educational programs, social services, and new hiring.

It is the intent of the legislature that as the public utilities commission works to implement this Act, the commission carefully consider regulatory barriers to distributed generation projects, both already identified and not, and quickly address barriers in a manner that is conducive to the development of distributed generation projects consistent with appropriate ratepayer protections.

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The purpose of this Act is to establish the Hawaii community-based renewable energy program to make the benefits of renewable energy more accessible to a greater number of Hawaii residents.

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

"PART 6. COMMUNITY-BASED RENEWABLE ENERGY"

§269-A Definitions. As used in this part:

"Benefiting account" means one or more accounts designated to receive a bill credit under section 269-B.

"Bill credit" means an amount of money credited each month to one or more benefiting accounts based on the percentage share of the community renewable energy facility that is assigned to the account pursuant to the methodology described in section 269-D.

"Community renewable energy facility" means a facility for the generation of electricity that meets the following requirements:

(1) Has a generating capacity of no more than one megawatt;
(2) Produces renewable energy as defined in section 269-91;

(3) Measures the electrical output of the facility by a
production meter capable of recording electrical
generation in real time;

(4) Is located within the service territory of an electric
utility;

(5) Operates in parallel with the electric utility's
transmission and distribution facilities;

(6) Conforms with the electric utility's interconnection
requirements;

(7) Is not subject to net metering under part VI of this
chapter; and

(8) Achieves initial commercial operation on January 1,
2014, or thereafter.

"Interest" means a direct or indirect ownership, lease,
subscription, or financing interest in a community renewable
city that enables the participant to receive a bill
credit for a retail account with the electric utility.

"Participant" means a retail customer of an electric
utility who owns, leases, finances, or subscribes to an interest
in a community renewable energy facility and who has designated
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one or more of its own retail accounts as a benefiting account
to which the subscription shall be attributed.

"Participant organization" means any entity whose purpose
is to beneficially own or operate a community renewable energy
facility for the participants or owners of that facility.

§269-B Community renewable energy facilities; benefiting
accounts; participants. (a) A retail customer of an electric
utility may acquire an interest in a community renewable energy
facility for the purpose of becoming a participant and receiving
a bill credit to offset all or a portion of the customer's bill
for electrical service. The participant shall designate one or
more benefiting accounts to which the interest shall be
attributed.

(b) A community renewable energy facility shall comply
with all safety and performance standards as required for
comparable net metered systems under section 269-111.

(c) To be eligible to be designated as a benefiting
account, the account shall be for service to premises located
within the geographical boundaries of the service territory of
the electric utility containing the community renewable energy
facility.
(d) Participants may aggregate their loads for the purpose of participating in a community renewable energy facility pursuant to this section.

(e) For a participant that elects to aggregate its loads for the purpose of acquiring an interest in a community renewable energy facility, the participant shall designate the benefitting accounts and the allocation of the bill credit to those accounts.

(f) A participant organization may beneficially own or operate a community renewable energy facility for the participants of that facility. A community renewable energy facility may be built, owned, or operated by a third party under contract with a participant organization.

(g) The commission shall not regulate the prices paid for an interest in a community renewable energy facility, but may enforce the required disclosures pursuant to section 269-H.

(h) The commission shall maintain a publicly available database of existing and proposed community renewable energy facilities. Proposed community renewable energy facilities shall report their expected size, location, and commercial operation date no less than six months prior to their commercial operation date.

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§269-C Standard contract or tariff; rate structure. (a) Every electric utility shall develop a standard contract or tariff providing for community-based renewable energy and shall make this contract available to eligible participants.

(b) Each community-based renewable energy metering contract or tariff shall be identical, with respect to rate structure, to the contract or tariff to which the same customer would be assigned if the customer was not a participant. The charges for all retail rate components for participants shall be based exclusively on the participant's net kilowatt-hour consumption over a monthly billing period. Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other charge that would increase a participant's costs beyond those of other customers in the rate class to which the participant would otherwise be assigned are contrary to the intent of this section, and shall not form a part of community-based renewable energy contracts or tariffs.

(c) The public utilities commission may amend the rate structure or standard contract or tariff by rule or order.

§269-D Calculation. The bill credit calculation shall be made by measuring the difference between the electricity
supplied to the benefiting account from the electric utility
and:

(1) The percentage share allocated to the benefiting account of
the electricity generated by the community renewable energy facility and fed back to the electric
grid over a monthly billing period; and

(2) Any unused credits for excess electricity from
the percentage share allocated to the benefiting account
carried over from previous months since the last
twelve-month reconciliation period, pursuant to
section 269-E.

§269-E Billing periods; twelve-month reconciliation. (a)
Billing of a participant’s benefiting accounts shall be on a
monthly basis; provided that the last monthly bill for each
twelve-month period shall reconcile for that twelve-month period
the net electricity provided by the electric utility with:

(1) The percentage share allocated to the benefiting
account of the electricity generated by the community
renewable energy facility and fed back to the electric
grid over the monthly billing period; and

(2) Any unused bill credits for excess electricity from
the percentage share allocated to the benefiting
account carried over from prior months since the last twelve-month reconciliation period.

(b) Bill credits for the percentage share allocated to the benefiting account of the excess electricity generated by the community renewable energy facility that remain unused after each twelve-month reconciliation period may not be carried over to the next twelve-month period.

§269-F Net electricity consumers. At the end of each monthly billing period, where the electricity supplied to the benefiting account during the period by the electric utility exceeds:

(1) The percentage share allocated to the benefiting account of the electricity generated by the community renewable energy facility during that same period; and

(2) Any unused bill credits for excess electricity from the percentage share allocated to the benefiting account of the electricity generated by the community renewable energy facility carried over from prior months since the last twelve-month reconciliation period,

the benefiting account is a net electricity consumer and the electric utility shall be owed compensation for the benefiting account.
account's net kilowatt-hour consumption over that same period.

The compensation owed for the benefiting account's net monthly
kilowatt-hour consumption shall be calculated at the retail rate
of the rate class to which the benefiting account would normally
be assigned if the customer were not a participant.

§269-G  Net electricity producers; excess electricity
credits and credit carry over. At the end of each monthly
billing period, where the percentage share allocated to the
benefiting account of the electricity generated by the community
renewable energy facility during the month exceeds the
electricity supplied to the benefiting account by the electric
utility during that same period, the benefiting account is a net
electricity producer and the electric utility shall retain any
excess kilowatt-hours generated; provided that the percentage
share allocated to the benefiting account of the electricity
generated by the community renewable energy facility in excess,
if any, in each monthly billing period shall be carried over to
the next month as a monetary value to the credit of the
benefiting account, which bill credit may accumulate and be used
to offset the compensation owed the electric utility for the
benefiting account's net kilowatt-hour consumption for
succeeding months within each twelve-month period; provided
further that the electric utility shall reconcile the benefiting account's consumption and the percentage share allocated to the benefiting account of the electricity generated by the community renewable energy facility for each twelve-month period as set forth in section 269-E. The benefiting account shall not be owed any compensation other than credits as provided in this section for excess kilowatt-hours unless the electric utility enters into a purchase agreement with the benefiting account for those excess kilowatt-hours.

§269-H Participant organization obligations. (a) A participant organization shall provide to the electric utility information on the identity of the benefiting accounts that will receive a bill credit pursuant to this part not less than thirty days prior to the billing cycle for which the participant's account will receive a bill credit.

(b) Prior to the sale of any interest in a community renewable energy facility, the participant organization shall provide a disclosure to the potential participant that, at a minimum, includes all of the following:

(1) A good faith estimate of the annual kilowatt-hours to be delivered by the community renewable energy facility based on the size of the interest;
(2) A plain language explanation of the terms under which the bill credits will be calculated;

(3) A plain language explanation of the contract provisions regulating the disposition or transfer of the interest; and

(4) A plain language explanation of the costs and benefits to the potential participant based on current usage and the applicable tariff, for the term of the proposed contract.

(c) Not more than once per month, and upon providing the electric utility with a minimum of thirty days' notice, the participant organization may change, add, or remove a benefiting account. If the owner of a benefiting account transfers service to a new address or benefiting account, the electric utility shall transfer any bill credits remaining from the previous account to the new account.

(d) A participant organization shall be responsible for providing to the electric utility company, on a monthly basis, a statement of the percentage shares to be used to determine the bill credit to each benefiting account. If there has been no change in the allocations from the previous submission or in the method of calculating the facility rate of participants, the
participant organization shall not be required to submit a new
statement.

(e) The participant organization shall provide real-time
meter data to the electric utility and shall make the data
available to a participant upon request. A participant
organization shall be responsible for all costs of metering and
shall retain production data for a period of thirty-six months.

(f) A participant organization shall provide no less than
one hundred twenty days' notice to the electric utility and the
commission prior to the date the community renewable energy
facility becomes operational.

(g) The participant organization shall be responsible for
all costs of interconnection at either the distribution or
transmission level of the electrical grid.

§269-I Electric utility obligations. (a) An electric
utility shall ensure that requests for the establishment of bill
credits and changes to benefiting accounts are processed in a
time period not to exceed thirty days from the date it receives
the request.

(b) An electric utility shall cooperate fully with
community renewable energy facilities to implement this part."
SECTION 3. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of "public utility" to read as follows:

"Public utility":

(1) Includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use for the transportation of passengers or freight; for the conveyance or transmission of telecommunications messages; for the furnishing of facilities for the transmission of intelligence by electricity within the State or between points within the State by land, water, or air; for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil; for the storage or warehousing of goods; or for the disposal of sewage; provided that the term shall include:

(A) An owner or operator of a private sewer company or sewer facility; and
(B) A telecommunications carrier or telecommunications common carrier; and

(2) Shall not include:

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

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

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

(D) Persons engaged in the business of warehousing or storage unless the commission finds that regulation is necessary in the public interest;

(E) A carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State; provided that the towing, salvage, hauling, or carriage is not pursuant to either an established schedule or an undertaking
to perform carriage services on behalf of the public generally;

(F) A carrier by water, substantially engaged in interstate or foreign commerce, that transports passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure;

(G) Any user, owner, or operator of the Hawaii electric system as defined under section 269-141;

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

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

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

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

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

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

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

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

(K) Any person who owns, controls, operates, or manages any seawater air conditioning district cooling project; provided that at least fifty percent of the energy required for the seawater air conditioning district cooling system is provided by a renewable energy resource, such as cold, deep seawater;

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

(M) Any person who:

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

(ii) Provides, sells, or transmits the power generated from that renewable energy system.
to an electric utility or to the customer on whose property the renewable energy system is located; provided that, for purposes of this subparagraph, a customer's property shall include all contiguous property owned or leased by the customer without regard to interruptions in contiguity caused by easements, public thoroughfares, transportation rights-of-way, and utility rights-of-way; and

A person engaged directly or indirectly in developing, producing, delivering, participating in, or selling interests in a community renewable energy facility under sections 269-A through 269-I.

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

SECTION 4. In codifying the new sections added by sections 2 and 3 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2013.

INTRODUCED BY:  

[Signatures]

SB HMS 2013-1431
Report Title:
Community-based Renewable Energy Program; Facilities

Description:
Establishes the Hawaii community-based renewable energy program. Enables utility customers to participate in a community-based renewable energy facility and benefit from the electricity generated from such a facility. Effective July 1, 2013.

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