
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 all Hawaii residents
2 should be able to participate in and enjoy the economic,
3 environmental, and societal benefits of renewable energy.
4 Spurred by the Hawaii clean energy initiative and increasingly
5 affordable clean energy options, such as solar photovoltaic,
6 customer on-site renewable energy generation technology has
7 become increasingly attainable for all types of consumers over
8 the past several years.

9 While the residential solar energy use statewide doubled in
10 2012, many individuals, households, and businesses are currently
11 unable to directly participate in renewable energy because of
12 their location, building type, access to the electric utility
13 grid, and other impediments.

14 The community-based renewable energy program seeks to
15 rectify this inequity by dramatically expanding the market for
16 eligible renewable energy resources to include residential and
17 commercial renters, residential and commercial buildings with
18 shaded or improperly oriented roofs, and other groups who are



1 unable to access the benefits of onsite clean energy generation.
2 The legislature finds that it is in the public interest to
3 promote broader participation in self-generation by Hawaii
4 residents, public agencies, and businesses through the
5 development of community-based renewable energy facilities in
6 which participants are entitled to generate electricity and
7 receive credit for that electricity on their utility bills.

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

16 It is the intent of the legislature that as the public
17 utilities commission works to implement this Act, the commission
18 carefully consider regulatory barriers to distributed generation
19 projects, whether identified or not, and quickly address
20 barriers in a manner that is conducive to the development of
21 distributed generation projects consistent with appropriate
22 ratepayer protections. This Act is not intended to delay or



1 limit electric utilities, regulated by the public utilities
2 commission, from establishing and implementing community-
3 based renewable energy programs. In addition, this Act shall
4 not, absent the issuance of a rule or order by the public
5 utilities commission, regulate the terms or operation of a
6 community-based renewable energy program owned or operated by
7 an electric utility.

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

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

15 **"PART . HAWAII COMMUNITY-BASED RENEWABLE ENERGY PROGRAM.**

16 **§269-A Definitions.** As used in this part:

17 "Commission" means the public utilities commission.

18 "Community-based renewable energy facility" means a
19 facility for the generation of electricity, not owned or
20 operated by an electric utility regulated by the commission,
21 which provides community-based renewable energy and meets the
22 following requirements:



- 1 (1) Produces renewable energy as defined in section 269-
- 2 91;
- 3 (2) Measures the electrical output of the facility by a
- 4 production meter capable of recording electrical
- 5 generation in real time;
- 6 (3) Is located within the service territory of an electric
- 7 utility;
- 8 (4) Operates in parallel with the electric utility's
- 9 transmission and distribution facilities;
- 10 (5) Conforms with the electric utility's interconnection
- 11 requirements;
- 12 (6) Is not subject to net energy metering under part VI;
- 13 and
- 14 (7) Achieves initial commercial operation on January 1,
- 15 2016, or thereafter.

16 "Community-based renewable energy tariff" means a tariff
17 approved by the commission by which utility customers may
18 purchase an interest conveying legal ownership in a portion or
19 portions of an eligible community-based renewable energy
20 facility that is selling energy to the utility without respect
21 to the physical siting or interconnection, as defined under
22 section 269-141, of the renewable energy system and allows a



1 utility to implement a billing arrangement to pay those
2 customers for energy purchased by the utility.

3 **§269-B Hawaii community-based renewable energy program.**

4 (a) There is established the Hawaii community-based renewable
5 energy program, which shall be placed in the commission for
6 administrative purposes, to make renewable energy more
7 accessible to a greater number of electric utility customers.

8 (b) A retail customer of a utility may acquire an interest
9 in a community-based renewable energy facility for the purpose
10 of becoming a participant and receiving a bill credit to offset
11 all or a portion of the customer's bill for electrical service.
12 Each participant shall designate one or more benefiting accounts
13 to which the interest shall be attributed.

14 (c) The commission shall not regulate the prices paid for
15 an interest in a community-based renewable energy facility, but
16 may enforce the required disclosures.

17 (d) The commission shall allow anyone to propose a
18 community-based renewable energy facility project while
19 preserving grid safety and performance standards, as set forth
20 in section 269-111.

21 (e) The commission may authorize the establishment of a
22 community-based renewable energy program owned or operated by a



1 utility that is not subject to this part provided that the
2 program is operated by a utility.

3 **§269-C Community-based renewable energy tariffs.** (a) The
4 commission shall establish, upon application by a utility or
5 upon the commission's own motion, a community-based renewable
6 energy contract, tariff, or tariffs and shall make this
7 contract, tariff, or tariffs available to participants. The
8 commission may amend the rate structure, standard contract, or
9 tariff by rule or order.

10 (b) The contract, tariff, or tariffs established pursuant
11 to subsection (a) shall:

12 (1) Calculate the value of the bill credit or bill owed
13 for the benefiting account's kilowatt-hour production
14 and consumption based on a time-of-use rate structure
15 that, at a minimum:

16 (A) Reflects the time-dependent value of the
17 participant's energy generated and time-dependent
18 cost of the participant's energy consumed, as
19 such value changes based on utility demand and on
20 the availability of energy resources; and

21 (B) Reflects the value of ancillary services or
22 demand response capability provided by the



1 community-based renewable energy facility and
2 participants; or

3 (2) Calculate the value of the bill credit or bill owed
4 for the benefiting account's kilowatt-hour production
5 and consumption:

6 (A) At the retail rate of the rate class to which the
7 benefiting account would normally be assigned if
8 the customer were not a participant;

9 (B) With an allowable fixed monthly charge that
10 reflects the utility's fixed costs associated
11 with the participant's use of the utility's
12 transmission, distribution, and other
13 infrastructure; and

14 (C) With a monthly credit based on the value of any
15 ancillary services or demand response capability
16 provided by the community-based renewable energy
17 facility and participants."

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

21 "Public utility":



- 1 (1) Includes every person who may own, control, operate,
2 or manage as owner, lessee, trustee, receiver, or
3 otherwise, whether under a franchise, charter,
4 license, articles of association, or otherwise, any
5 plant or equipment, or any part thereof, directly or
6 indirectly for public use for the transportation of
7 passengers or freight; for the conveyance or
8 transmission of telecommunications messages; for the
9 furnishing of facilities for the transmission of
10 intelligence by electricity within the State or
11 between points within the State by land, water, or
12 air; for the production, conveyance, transmission,
13 delivery, or furnishing of light, power, heat, cold,
14 water, gas, or oil; for the storage or warehousing of
15 goods; or for the disposal of sewage; provided that
16 the term shall include:
17 (A) An owner or operator of a private sewer company
18 or sewer facility; and
19 (B) A telecommunications carrier or
20 telecommunications common carrier; and
21 (2) Shall not include:



- 1 (A) An owner or operator of an aerial transportation
2 enterprise;
- 3 (B) An owner or operator of a taxicab as defined in
4 this section;
- 5 (C) Common carriers that transport only freight on
6 the public highways, unless operating within
7 localities, along routes, or between points that
8 the public utilities commission finds to be
9 inadequately serviced without regulation under
10 this chapter;
- 11 (D) Persons engaged in the business of warehousing or
12 storage unless the commission finds that
13 regulation is necessary in the public interest;
- 14 (E) A carrier by water to the extent that the carrier
15 enters into private contracts for towage,
16 salvage, hauling, or carriage between points
17 within the State; provided that the towing,
18 salvage, hauling, or carriage is not pursuant to
19 either an established schedule or an undertaking
20 to perform carriage services on behalf of the
21 public generally;



- 1 (F) A carrier by water, substantially engaged in
2 interstate or foreign commerce, that transports
3 passengers on luxury cruises between points
4 within the State or on luxury round-trip cruises
5 returning to the point of departure;
- 6 (G) Any user, owner, or operator of the Hawaii
7 electric system as defined under section 269-141;
- 8 (H) A telecommunications provider only to the extent
9 determined by the public utilities commission
10 pursuant to section 269-16.9;
- 11 (I) Any person who controls, operates, or manages
12 plants or facilities developed pursuant to
13 chapter 167 for conveying, distributing, and
14 transmitting water for irrigation and other
15 purposes for public use and purpose;
- 16 (J) Any person who owns, controls, operates, or
17 manages plants or facilities for the reclamation
18 of wastewater; provided that:
- 19 (i) The services of the facility are provided
20 pursuant to a service contract between the
21 person and a state or county agency and at
22 least ten per cent of the wastewater



1 processed is used directly by the state or
2 county agency that entered into the service
3 contract;

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

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

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



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

- 4 (K) Any person who owns, controls, operates, or
- 5 manages any seawater air conditioning district
- 6 cooling project; provided that at least fifty per
- 7 cent of the energy required for the seawater air
- 8 conditioning district cooling system is provided
- 9 by a renewable energy resource, such as cold,
- 10 deep seawater;

- 11 (L) Any person who owns, controls, operates, or
- 12 manages plants or facilities primarily used to
- 13 charge or discharge a vehicle battery that
- 14 provides power for vehicle propulsion;

- 15 (M) Any person who:
- 16 (i) Owns, controls, operates, or manages a
- 17 renewable energy system that is located on a
- 18 customer's property; and
- 19 (ii) Provides, sells, or transmits the power
- 20 generated from that renewable energy system
- 21 to an electric utility or to the customer on
- 22 whose property the renewable energy system



1 is located; provided that, for purposes of
2 this subparagraph, a customer's property
3 shall include all contiguous property owned
4 or leased by the customer without regard to
5 interruptions in contiguity caused by
6 easements, public thoroughfares,
7 transportation rights-of-way, and utility
8 rights-of-way; [~~and~~]

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

17 (i) An interconnection, as defined in section
18 269-141, is maintained with an electric
19 public utility to preserve the lessees' or
20 tenants' ability to be served by an electric
21 utility;



- 1 (ii) Such person does not use an electric public
2 utility's transmission or distribution lines
3 to provide, sell, or transmit electricity to
4 lessees or tenants;
- 5 (iii) At the time that the lease agreement is
6 signed, the rate charged to the lessee or
7 tenant for the power generated by the
8 renewable energy system shall be no greater
9 than the effective rate charged per kilowatt
10 hour from the applicable electric utility
11 schedule filed with the public utilities
12 commission;
- 13 (iv) The rate schedule or formula shall be
14 established for the duration of the lease,
15 and the lease agreement entered into by the
16 lessee or tenant shall reflect such rate
17 schedule or formula;
- 18 (v) The lease agreement shall not abrogate any
19 terms or conditions of applicable tariffs
20 for termination of services for non-payment
21 of electric utility services or rules
22 regarding health, safety, and welfare;



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



1 lease agreement or chapter 521, if
2 applicable; and
3 (vii) Nothing in this section shall be construed
4 to permit wheeling[~~-~~]; and
5 (O) A person engaged directly or indirectly in
6 developing, producing, delivering, participating
7 in, or selling interests in a community-based
8 renewable energy facility pursuant to part .

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

18 SECTION 4. The public utilities commission shall prepare a
19 report exploring options and procedures for the implementation
20 of the Hawaii community-based renewable energy program. The
21 public utilities commission shall submit the report to the
22 legislature, including findings, recommendations, and any



1 proposed legislation, no later than twenty days prior to the
2 convening of the regular session of 2015.

3 SECTION 5. In codifying the new sections added by section
4 2 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 6. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 7. This Act shall take effect on June 15, 2750.



Report Title:

Hawaii Community-based Renewable Energy Program

Description:

Establishes the Hawaii Community-based Renewable Energy Program to make renewable energy more accessible to more Hawaii residents and businesses currently unable to participate in clean energy generation. Effective June 15, 2015. (HB2141 HD1)

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

