

---

---

## A BILL FOR AN ACT

RELATING TO THE PUBLIC UTILITIES COMMISSION.

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

1           SECTION 1. The legislature finds that part V of chapter  
2 269, Hawaii Revised Statutes, requires electric utility  
3 companies in the State to establish renewable portfolio  
4 standards of one hundred per cent of their net electricity sales  
5 by December 31, 2045. However, the legislature recognizes that  
6 gas utility companies in the State are not held to any  
7 equivalent requirement. The legislature believes that requiring  
8 electric utilities, but not gas utilities, to increase their  
9 reliance on renewable energy creates an unfair playing field,  
10 and leaves Hawaii gas utility customers reliant on nonrenewable  
11 fossil fuels in the coming years. The legislature also believes  
12 that due to the impact that fossil fuels have on the global  
13 environment, gas utilities' use of fossil fuels should be  
14 reduced.

15           The purpose of this Act is to require the State's gas  
16 utility companies to establish renewable portfolio standards of



1 one hundred per cent of their total gas sales by December 31,  
2 2045.

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

6 "§269- Renewable portfolio standards for gas utility  
7 companies. (a) Each gas utility company that sells gas for  
8 consumption in the State shall establish a renewable portfolio  
9 standard of:

10 (1) per cent of its total gas sales by December 31,  
11 2020;

12 (2) per cent of its total gas sales by December 31,  
13 2030;

14 (3) per cent of its total gas sales by December 31,  
15 2040; and

16 (4) One hundred per cent of its total gas sales by  
17 December 31, 2045.

18 (b) The public utilities commission may establish  
19 standards for each gas utility company that prescribe what  
20 portion of the renewable portfolio standards shall be met by  
21 specific types of renewable energy resources.



1        (c) If the public utilities commission determines that a  
2 gas utility company failed to meet the renewable portfolio  
3 standard, after a hearing in accordance with chapter 91, the gas  
4 utility company shall be subject to penalties to be established  
5 by the public utilities commission; provided that if the  
6 commission determines that the gas utility company is unable to  
7 meet the renewable portfolio standards due to reasons beyond the  
8 reasonable control of the company, as set forth in subsection  
9 (d), the commission, in its discretion, may waive in whole or in  
10 part any otherwise applicable penalties.

11        (d) Events or circumstances that are outside of a gas  
12 utility company's reasonable control may include, to the extent  
13 the event or circumstance could not be reasonably foreseen and  
14 ameliorated:

- 15        (1) Weather-related damage;  
16        (2) Natural disasters;  
17        (3) Mechanical or resource failure;  
18        (4) Failure of renewable gas producers or suppliers to  
19        meet contractual obligations to the gas utility  
20        company;  
21        (5) Labor strikes or lockouts;



- 1        (6) Actions of governmental authorities that adversely
- 2            affect the production, transmission, or distribution
- 3            of renewable gas under contract to a gas utility
- 4            company;
- 5        (7) Inability to obtain permits or land use approvals for
- 6            renewable gas projects;
- 7        (8) Inability to acquire sufficient renewable gas to meet
- 8            the renewable portfolio standard goals beyond 2040 in
- 9            a manner that is cost-effective or beneficial to
- 10           Hawaii's economy in relation to comparable fossil fuel
- 11           resources;
- 12        (9) Substantial limitations, restrictions, or prohibitions
- 13           on utility renewable gas projects; and
- 14        (10) Other events and circumstances of a similar nature."

15        SECTION 3. Section 196-41, Hawaii Revised Statutes, is  
 16 amended by amending subsections (a) and (b) to read as follows:

17        "(a) The department of land and natural resources and  
 18 department of business, economic development, and tourism shall  
 19 facilitate the private sector's development of renewable energy  
 20 projects by supporting the private sector's attainment of the  
 21 renewable portfolio standards in [~~section~~] sections 269-92 [-]"



1 and 269- . Both departments shall provide meaningful support  
 2 in areas relevant to the mission and functions of each  
 3 department as provided in this section, as well as in other  
 4 areas the directors of each department may deem appropriate.

5 (b) The department of land and natural resources shall:

6 (1) Develop and publish a catalog by December 31, 2006,  
 7 and every five years thereafter, of potential sites  
 8 for the development of renewable energy; and

9 (2) Work with electric and gas utility companies and with  
 10 other renewable energy developers on all applicable  
 11 planning and permitting processes to expedite the  
 12 development of renewable energy resources."

13 SECTION 4. Section 269-91, Hawaii Revised Statutes, is  
 14 amended as follows:

15 1. By adding two new definitions to be appropriately  
 16 inserted and to read:

17 "Gas utility company" means a public utility as defined in  
 18 section 269-1, for the production, conveyance, transmission,  
 19 delivery, or furnishing of gas to end users through an  
 20 underground system of pipes.



1        "Utility company" means an electric utility company or a  
2 gas utility company."

3            2. By amending the definition of "cost-effective" to  
4 read:

5            "'Cost-effective" means the ability to produce or purchase  
6 [electric] energy or firm capacity, or both, as applicable, from  
7 renewable energy resources at or below avoided costs or as the  
8 commission otherwise determines to be just and reasonable  
9 consistent with the methodology set by the public utilities  
10 commission in accordance with section 269-27.2."

11           3. By amending the definition of "renewable portfolio  
12 standard" to read:

13           "'Renewable portfolio standard" means, in the context of:

14           (1) An electric utility company, the percentage of  
15                  electrical energy sales that is represented by  
16                  renewable electrical energy[-]; or

17           (2) A gas utility company, the percentage of total gas  
18                  sales that is represented by renewable gas energy."

19           SECTION 5. Section 269-92, Hawaii Revised Statutes, is  
20 amended as follows:

21           1. By amending its title to read:



1           "§269-92 Renewable portfolio standards[-] for electric  
2 utility companies."

3           2. By amending subsections (b) and (c) to read:

4           "(b) The public utilities commission may establish  
5 standards for each electric utility company that prescribe what  
6 portion of the renewable portfolio standards shall be met by  
7 specific types of renewable energy resources; provided that:

8           (1) Prior to January 1, 2015, at least fifty per cent of  
9 the renewable portfolio standards shall be met by  
10 electrical energy generated using renewable energy as  
11 the source, and after December 31, 2014, the entire  
12 renewable portfolio standard shall be met by  
13 electrical generation from renewable energy sources;

14           (2) Beginning January 1, 2015, electrical energy savings  
15 shall not count toward renewable energy portfolio  
16 standards;

17           (3) Where electrical energy is generated or displaced by a  
18 combination of renewable and nonrenewable means, the  
19 proportion attributable to the renewable means shall  
20 be credited as renewable energy; and



1           (4) Where fossil and renewable fuels are co-fired in the  
2           same generating unit, the unit shall be considered to  
3           generate renewable electrical energy (electricity) in  
4           direct proportion to the percentage of the total heat  
5           input value represented by the heat input value of the  
6           renewable fuels.

7           (c) If the public utilities commission determines that an  
8           electric utility company failed to meet the renewable portfolio  
9           standard, after a hearing in accordance with chapter 91, the  
10          electric utility company shall be subject to penalties to be  
11          established by the public utilities commission; provided that if  
12          the commission determines that the electric utility company is  
13          unable to meet the renewable portfolio standards due to reasons  
14          beyond the reasonable control of [~~an electric utility,~~] the  
15          company, as set forth in subsection (d), the commission, in its  
16          discretion, may waive in whole or in part any otherwise  
17          applicable penalties."

18           SECTION 6. Section 269-93, Hawaii Revised Statutes, is  
19          amended to read as follows:

20           "§269-93 Achieving portfolio standard. (a) [~~An electric~~]  
21          A utility company and its [~~electric~~] utility affiliates may



1 aggregate their renewable portfolios to achieve the applicable  
2 renewable portfolio standard~~[-]~~ under this part.

3 (b) If [~~an electric~~] a utility company and its [~~electric~~]  
4 utility affiliates aggregate their renewable portfolios to  
5 achieve the applicable renewable portfolio standard, the public  
6 utilities commission may distribute, apportion, or allocate the  
7 costs and expenses of all or any portion of the respective  
8 renewable portfolios among the [~~electric~~] utility company, its  
9 [~~electric~~] utility affiliates, and their respective ratepayers,  
10 as is reasonable under the circumstances.

11 (c) [~~An electric~~] A utility company may recover, through  
12 an automatic rate adjustment clause, the [~~electric~~] utility  
13 company's revenue requirement resulting from the distribution,  
14 apportionment, or allocation of the costs and expenses of the  
15 renewable portfolios of the [~~electric~~] utility company and its  
16 [~~electric~~] utility affiliates.

17 (d) To provide for timely recovery of the revenue  
18 requirement under subsection (c), the commission may establish a  
19 separate automatic rate adjustment clause, or approve the use of  
20 a previously approved automatic rate adjustment clause, without  
21 a rate case filing. The use of the automatic rate adjustment



1 clause to recover the revenue requirement shall be allowed to  
2 continue until the revenue requirement is incorporated in rates  
3 in the respective [eleetrie] utility company's rate case."

4 SECTION 7. Section 269-94, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[+]§269-94 **Waivers, extensions, and incentives.** [{}] (a)

7 Any [eleetrie] utility company not meeting [the] its applicable  
8 renewable portfolio standard shall report to the public  
9 utilities commission within ninety days following the goal dates  
10 established in section [{}]269-92 [{}], or section 269- , as  
11 applicable, and provide an explanation for not meeting the  
12 applicable renewable portfolio standard. The public utilities  
13 commission shall have the option to either grant a waiver from  
14 the renewable portfolio standard or an extension for meeting the  
15 prescribed standard.

16 (b) The public utilities commission may provide incentives  
17 to encourage [eleetrie] utility companies to exceed their  
18 renewable portfolio standards or to meet their renewable  
19 portfolio standards ahead of time, or both."

20 SECTION 8. Section 269-95, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§269-95 Renewable portfolio standards study. The public  
2 utilities commission shall:

3           (1) [~~By December 31, 2007, develop~~] Develop and implement  
4           [a]:

5           (A) An electric utility ratemaking structure [7] by  
6           December 31, 2007; and

7           (B) A gas utility ratemaking structure by  
8           December 31, \_\_\_\_\_,

9           which may include performance-based ratemaking, to  
10          provide incentives that encourage Hawaii's [electric]  
11          utility companies to use cost-effective renewable  
12          energy resources found in Hawaii to meet the renewable  
13          portfolio standards established in section 269-92 [7]  
14          or section 269-\_\_\_\_\_, as applicable, while allowing for  
15          deviation from the standards in the event that the  
16          standards cannot be met in a cost-effective manner or  
17          as a result of events or circumstances, such as  
18          described in section 269-92(d) [7] or section  
19          269-\_\_\_\_\_(d), beyond the control of the [electric]  
20          utility company that could not have been reasonably  
21          anticipated or ameliorated;



- 1           (2) Gather, review, and analyze empirical data to:
- 2           (A) Determine the extent to which any proposed
- 3           utility ratemaking structure would impact
- 4           [~~electric~~] utility companies' profit margins; and
- 5           (B) Ensure that the [~~electric~~] utility companies'
- 6           opportunity to earn a fair rate of return is not
- 7           diminished;
- 8           (3) Use funds from the public utilities special fund to
- 9           contract with the Hawaii natural energy institute of
- 10          the University of Hawaii to conduct independent
- 11          studies to be reviewed by a panel of experts from
- 12          entities such as the United States Department of
- 13          Energy, National Renewable Energy Laboratory, Electric
- 14          Power Research Institute, Hawaii [~~electric~~] utility
- 15          companies, environmental groups, and other similar
- 16          institutions with the required expertise. These
- 17          studies shall include findings and recommendations
- 18          regarding:
- 19          (A) The capability of Hawaii's [~~electric~~] utility
- 20          companies to achieve renewable portfolio



1 standards in a cost-effective manner and shall  
2 assess factors such as:  
3 (i) The impact on consumer rates;  
4 (ii) Utility system reliability and stability;  
5 (iii) Costs and availability of appropriate  
6 renewable energy resources and technologies,  
7 including the impact of renewable portfolio  
8 standards, if any, on the energy prices  
9 offered by renewable energy developers;  
10 (iv) Permitting approvals;  
11 (v) Effects on the economy;  
12 (vi) Balance of trade, culture, community,  
13 environment, land, and water;  
14 (vii) Climate change policies;  
15 (viii) Demographics;  
16 (ix) Cost of fossil fuel volatility; and  
17 (x) Other factors deemed appropriate by the  
18 commission; and  
19 (B) Projected renewable portfolio standards to be set  
20 five and ten years beyond the then current  
21 standards;



# H.B. NO. 1839

- 1           (4) Evaluate the renewable portfolio standards every five
- 2                   years, beginning in 2013, and may revise the standards
- 3                   based on the best information available at the time to
- 4                   determine if the standards established by section
- 5                   269-92 and section 269-\_\_\_\_\_ remain effective and
- 6                   achievable; and
- 7           (5) Report its findings and revisions to the renewable
- 8                   portfolio standards, based on its own studies and
- 9                   other information, to the legislature no later than
- 10                  twenty days before the convening of the regular
- 11                  session of 2014, and every five years thereafter."

12           SECTION 9. Statutory material to be repealed is bracketed  
 13 and stricken. New statutory material is underscored.

14           SECTION 10. This Act shall take effect on July 1, 2018.

15

INTRODUCED BY: *Guthrie Thelen*  
 JAN 18 2018



# H.B. NO. 1839

**Report Title:**

Renewable Energy; Gas; Renewable Portfolio Standard

**Description:**

Requires gas utility companies to establish renewable energy portfolio standards for gas.

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

