

JAN 22 2021

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 Hawai'i's energy
2 sector is undergoing a transition to renewable energy that is
3 strengthening the State's economy, environment, and security.
4 To complete this transition successfully and ensure maximum
5 benefits for Hawai'i's people and businesses, it is important
6 that all relevant entities are aligned in the goal of achieving
7 one hundred per cent renewable energy. The legislature is also
8 concerned that requiring electric utilities, but not gas
9 utilities, to expand their reliance on renewable energy sources
10 creates an unfair playing field that may unintentionally harm
11 consumers by promoting suboptimal long-lived investments in
12 fossil fuels through gas-fired distributed electrical
13 generation. These effects may also have near- and long-term
14 impacts on the viability of the State's electric utilities, and
15 near- and long-term impacts on the viability of the State's gas
16 utilities.



1 The legislature finds that the most simple, fair, and
2 effective solution to this concern is to implement renewable
3 portfolio standard targets for gas utility companies that mirror
4 those being achieved by electric utilities. This Act
5 establishes renewable energy portfolio standards that require
6 gas utility companies to incrementally increase sales of gas
7 from renewable sources over time. This includes sales by the
8 heretofore regulated gas utility companies (e.g. sales via gas
9 pipelines), and all affiliates or subsidiaries of such gas
10 utilities (e.g. sales via large gas tanks). This aggregated
11 approach has a two-fold benefit: it will enable flexibility in
12 achieving renewable standards, as the renewable content of
13 regulated and unregulated gas deliveries can be aggregated; and
14 it will ensure that the objectives of this Act cannot be
15 circumvented through the use of unregulated affiliates or
16 subsidiary entities.

17 The purpose of this Act is to promote fairness and
18 alignment in Hawai'i's transition to one hundred per cent
19 renewable energy and ensure that the State's market for gas
20 embraces and supports the State's transition toward increasing
21 renewable energy.



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

4 "§269-A Gas renewable portfolio standards. (a) Each gas
5 utility company that sells gas for consumption in the State
6 shall establish a renewable energy portfolio standard of:

- 7 (1) Twenty-five per cent of its total sales by
8 December 31, 2025;
- 9 (2) Forty per cent of its total sales by December 31,
10 2030;
- 11 (3) Seventy per cent of its total sales by December 31,
12 2040; and
- 13 (4) One hundred per cent of its total sales by
14 December 31, 2045.

15 For the purpose of this section, "total sales" means the
16 sale of all gas in the State by a gas utility, its corporate
17 parent, and its corporate parent's subsidiary entities,
18 partners, joint venturers, and affiliate entities.

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



1 of renewable energy resources; provided that where gas is
2 composed of co-mingled fossil and renewable fuels, the renewable
3 energy component of such gas shall be considered to be in direct
4 proportion to the percentage of the total heat output value
5 represented by the heat output value of the fuels derived from
6 renewable energy.

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

17 (d) Events or circumstances that are beyond a gas utility
18 company's reasonable control may include, to the extent the
19 event or circumstance could not be reasonably foreseen and
20 ameliorated:

21 (1) Weather-related damage;



- 1 (2) Natural disasters;
- 2 (3) Mechanical or resource failure;
- 3 (4) Failure of renewable gas producers or suppliers to
4 meet contractual obligations to the gas utility
5 company;
- 6 (5) Labor strikes or lockouts;
- 7 (6) Actions of governmental authorities that adversely
8 affect the procurement of renewable gas energy under
9 contract to a gas utility company;
- 10 (7) Inability to obtain permits or land use approvals for
11 renewable gas projects;
- 12 (8) Inability to acquire sufficient renewable gas to meet
13 the renewable portfolio standard goals for 2040 and
14 for years beyond in a manner that is cost-effective or
15 beneficial to the State's economy in relation to
16 comparable fossil fuel resources;
- 17 (9) Substantial limitations, restrictions, or prohibitions
18 on utility renewable gas projects; and
- 19 (10) Other events and circumstances of a similar nature
20 that could not be reasonably foreseen and ameliorated.



1 §269-B Achieving gas portfolio standard. (a) A gas
2 utility company and its affiliates may aggregate their renewable
3 portfolios to achieve the renewable portfolio standard.

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

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

4 §269-C Waivers, extensions, and incentives. Any gas
5 utility company not meeting the renewable portfolio standard
6 shall report to the public utilities commission within ninety
7 days following the goal dates established in section 269-A, and
8 provide an explanation for failing to meet the renewable
9 portfolio standard. The public utilities commission, after
10 allowing an appropriate period of public comment, shall have the
11 option to either grant, or not, a waiver from the renewable
12 portfolio standard or an extension for meeting the prescribed
13 standard. The public utilities commission may provide
14 incentives to encourage gas utility companies to exceed their
15 renewable portfolio standards or to meet their renewable
16 portfolio standards ahead of time, or both."

17 SECTION 3. Section 269-91, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By adding a new definition to be appropriately inserted
20 and to read:



1 "Gas utility company" means a public utility as defined
2 under section 269-1, for the production, conveyance,
3 transmission, delivery, or furnishing of gas or oil, or of
4 light, power, heat, or cold produced from gas or oil."

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

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

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

14 "Renewable portfolio standard" in the context of an
15 electric utility company means the percentage of electrical
16 energy sales that is represented by renewable electrical energy.
17 "Renewable portfolio standard" in the context of a gas utility
18 company means the percentage of gas sales that is represented by
19 fuels derived from renewable energy."

20 SECTION 4. 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 and implement a utility
4 ratemaking structure, which may include performance-
5 based ratemaking, to provide incentives that encourage
6 Hawaii's electric utility companies to use cost-
7 effective renewable energy resources found in Hawaii
8 to meet the renewable portfolio standards established
9 in [~~section 269-92,~~] this chapter, while allowing for
10 deviation from the standards in the event that the
11 standards cannot be met in a cost-effective manner or
12 as a result of events or circumstances, such as
13 described in section 269-92(d) [~~7~~] or section 269-A(d),
14 beyond the control of the electric utility company
15 that could not have been reasonably anticipated or
16 ameliorated;

17 (2) Gather, review, and analyze empirical data to:

18 (A) Determine the extent to which any proposed
19 utility ratemaking structure would impact
20 [~~electric~~] utility companies' profit margins; and



1 (B) Ensure that the [~~electric~~] utility companies'
2 opportunity to earn a fair rate of return is not
3 diminished;

4 (3) Use funds from the public utilities special fund to
5 contract with the Hawaii natural energy institute of
6 the University of Hawaii to conduct independent
7 studies to be reviewed by a panel of experts from
8 entities such as the United States Department of
9 Energy, National Renewable Energy Laboratory, Electric
10 Power Research Institute, Hawaii electric utility
11 companies, environmental groups, and other similar
12 institutions with the required expertise. These
13 studies shall include findings and recommendations
14 regarding:

15 (A) The capability of Hawaii's electric utility
16 companies to achieve renewable portfolio
17 standards in a cost-effective manner and shall
18 assess factors such as:

19 (i) The impact on consumer rates;

20 (ii) Utility system reliability and stability;



- 1 (iii) Costs and availability of appropriate
2 renewable energy resources and technologies,
3 including the impact of renewable portfolio
4 standards, if any, on the energy prices
5 offered by renewable energy suppliers or
6 developers;
- 7 (iv) Permitting approvals;
- 8 (v) Effects on the economy;
- 9 (vi) Balance of trade, culture, community,
10 environment, land, and water;
- 11 (vii) Climate change policies;
- 12 (viii) Demographics;
- 13 (ix) Cost of fossil fuel volatility; and
- 14 (x) Other factors deemed appropriate by the
15 commission; and
- 16 (B) Projected renewable portfolio standards to be set
17 five and ten years beyond the then current
18 standards;
- 19 (4) Evaluate the renewable portfolio standards every five
20 years, beginning in 2013, and may revise the standards
21 based on the best information available at the time to



1 determine if the standards established by section
2 269-92 remain effective and achievable; and
3 (5) Report its findings and revisions to the renewable
4 portfolio standards, based on its own studies and
5 other information, to the legislature no later than
6 twenty days before the convening of the regular
7 session of 2014, and every five years thereafter."

8 SECTION 5. In codifying the new sections added by section
9 2 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

12 SECTION 6. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect on July 1, 2021.

15

INTRODUCED BY: *Karl Rhoads*



S.B. NO. 289

Report Title:

Renewable Energy; Gas; Renewable Portfolio Standard

Description:

Establishes renewable energy portfolio standards for gas utility companies. Provides means for gas utility companies to recover costs incurred to achieve renewable energy portfolio standards. Requires the public utilities commission to conduct a study of the renewable portfolio standards.

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

