

JAN 22 2021

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

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PART I

2

SECTION 1. The legislature finds that Act 97, Session Laws

3

of Hawaii 2015, amended section 269-92, Hawaii Revised Statutes,

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to establish a one hundred per cent renewable portfolio standard

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by December 31, 2045, with the intent to transition the State

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away from imported fuels and toward renewable local resources

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that provide a secure source of affordable energy. Currently,

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the calculation of the renewable portfolio standard enacted in

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2001 and amended in 2006, is the percentage of electrical energy

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sales that is represented by renewable electrical energy. The

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legislature finds that the calculation of the renewable

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portfolio standard based on electrical energy sales (renewable

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electrical energy sales divided by total electrical energy

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sales), rather than on electrical energy generation (renewable

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electrical energy generation divided by total electrical energy

16

generation), overestimates the amount of renewable energy



1 serving Hawaii's electric utility customers. There are two
2 fundamental issues that lead to the current discrepancy:

3 (1) The current renewable portfolio standard calculation
4 inflates the reported percentage of renewable energy
5 by excluding customer-sited, grid-connected energy
6 generation in the denominator, which becomes material
7 with higher levels of customer-sited, grid-connected
8 renewable energy generation and higher renewable
9 portfolio standard percentages; and

10 (2) The current electrical energy sales number does not
11 include energy losses that occur between the points of
12 electrical energy generation and the customer meter,
13 where sales are measured.

14 Failure to address these issues creates an incorrect
15 measure of the State's progress toward its statutory goal of one
16 hundred per cent renewable energy.

17 The legislature also finds that it is important that all
18 relevant entities are aligned in the goal of achieving one
19 hundred per cent renewable energy. Requiring electric
20 utilities, but not gas utilities, to increase their reliance on
21 renewable energy creates an unfair playing field that may



1 unintentionally harm consumers by promoting suboptimal long-
2 lived investments in fossil fuels through gas-fired distributed
3 electrical generation. These effects may also have near- and
4 long-term impacts on the viability of the State's electric
5 utilities, and near- and long-term impacts on the viability of
6 the State's gas utilities.

7 The legislature further finds that the simplest, fairest,
8 and most effective solution to this concern is to implement
9 renewable portfolio standard targets for gas utilities that
10 mirror those being achieved by electric utilities.

11 The purpose of this Act is to:

12 (1) Amend the definition of renewable portfolio standard
13 to more accurately reflect the percentage of total
14 electrical energy generated that is represented by
15 renewable energy in the State; and

16 (2) Promote fairness and alignment in Hawaii's transition
17 to one hundred per cent renewable energy and ensure
18 that the State's market for gas is aligned with the
19 State's transition to renewable energy.



1 PART II

2 SECTION 2. Section 269-91, Hawaii Revised Statutes, is
3 amended as follows:

4 1. By repealing the definition of "cost-effective".

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

11 2. By repealing the definition of "renewable portfolio
12 standard".

13 [~~"Renewable portfolio standard" means the percentage of~~
14 ~~electrical energy sales that is represented by renewable~~
15 ~~electrical energy."]~~

16 SECTION 3. Section 269-92, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§269-92 Renewable portfolio standards**[-] **for electric**
19 **utility companies.** (a) Each electric utility company that

20 sells electricity for consumption in the State shall establish a
21 renewable portfolio standard of:



- 1 (1) Ten per cent of its net electricity sales by December
2 31, 2010;
- 3 (2) Fifteen per cent of its net electricity sales by
4 December 31, 2015;
- 5 (3) Thirty per cent of its net electricity sales by
6 December 31, 2020;
- 7 (4) Forty per cent of its net electricity [~~sales~~]
8 generation by December 31, 2030;
- 9 (5) Seventy per cent of its net electricity [~~sales~~]
10 generation by December 31, 2040; and
- 11 (6) One hundred per cent of its net electricity [~~sales~~]
12 generation by December 31, 2045.
- 13 (b) The public utilities commission may establish
14 standards for each electric utility company that prescribe
15 [~~what~~] the portion of the renewable portfolio standards that
16 shall be met by specific types of renewable energy resources;
17 provided that:
- 18 (1) Prior to January 1, 2015, at least fifty per cent of
19 the renewable portfolio standards shall be met by
20 electrical energy generated using renewable energy as
21 the source, and after December 31, 2014, the entire



1 renewable portfolio standard shall be met by
2 electrical generation from renewable energy sources;
3 (2) Beginning January 1, 2015, electrical energy savings
4 shall not count toward renewable energy portfolio
5 standards;
6 (3) Where electrical energy is generated or displaced by a
7 combination of renewable and nonrenewable means, the
8 proportion attributable to the renewable means shall
9 be credited as renewable energy; and
10 (4) Where fossil and renewable fuels are co-fired in the
11 same generating unit, the unit shall be considered to
12 generate renewable electrical energy (electricity) in
13 direct proportion to the percentage of the total heat
14 input value represented by the heat input value of the
15 renewable fuels.
16 (c) If the public utilities commission determines that an
17 electric utility company failed to meet the renewable portfolio
18 standard, after a hearing in accordance with chapter 91, the
19 utility shall be subject to penalties to be established by the
20 public utilities commission; provided that if the commission
21 determines that the electric utility company is unable to meet



1 the renewable portfolio standards [~~due to~~] because of reasons
2 beyond the reasonable control of [~~an~~] the electric utility[~~r~~]
3 company, as set forth in subsection (d), the commission, in its
4 discretion, may waive in whole or in part any otherwise
5 applicable penalties.

6 (d) Events or circumstances that are [~~outside of~~] beyond
7 an electric utility company's reasonable control may include, to
8 the extent the event or circumstance could not be reasonably
9 foreseen and ameliorated:

- 10 (1) Weather-related damage;
- 11 (2) Natural disasters;
- 12 (3) Mechanical or resource failure;
- 13 (4) Failure of renewable electrical energy producers to
14 meet contractual obligations to the electric utility
15 company;
- 16 (5) Labor strikes or lockouts;
- 17 (6) Actions of governmental authorities that adversely
18 affect the generation, transmission, or distribution
19 of renewable electrical energy under contract to an
20 electric utility company;



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- 1 (7) Inability to acquire sufficient renewable electrical
2 energy due to lapsing of tax credits related to
3 renewable energy development;
- 4 (8) Inability to obtain permits or land use approvals for
5 renewable electrical energy projects;
- 6 (9) Inability to acquire sufficient cost-effective
7 renewable electrical energy;
- 8 (10) Inability to acquire sufficient renewable electrical
9 energy to meet the renewable portfolio standard goals
10 beyond 2030 in a manner that is beneficial to Hawaii's
11 economy in relation to comparable fossil fuel
12 resources;
- 13 (11) Substantial limitations, restrictions, or prohibitions
14 on utility renewable electrical energy projects; and
- 15 (12) Other events and circumstances of a similar nature[-]
16 that could not be reasonably foreseen and ameliorated.
- 17 (e) For the purposes of this section:
- 18 "Cost-effective" means the ability to produce or purchase
19 electric energy or firm capacity, or both, from renewable energy
20 resources at or below avoided costs or as the public utilities
21 commission otherwise determines to be just and reasonable



1 consistent with the methodology set by the commission in
2 accordance with section 269-27.2.

3 "Renewable portfolio standard" means the percentage of
4 electrical energy generation that is represented by renewable
5 electrical energy."

6 SECTION 4. Section 269-93, Hawaii Revised Statutes, is
7 amended by amending its title and subsection (a) to read as
8 follows:

9 **"§269-93 Achieving electric utility company portfolio**
10 **standard.** (a) An electric utility company and its electric
11 utility affiliates may aggregate their renewable portfolios to
12 achieve the renewable portfolio standard~~[-]~~, as established and
13 defined in section 269-92."

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

16 **"[+]§269-94 Waivers, extensions, and incentives [-] for**
17 **electric utility companies.** Any electric utility company not
18 meeting the renewable portfolio standard, as established and
19 defined in section 269-92, shall report to the public utilities
20 commission within ninety days following the goal dates
21 established in section ~~[+]269-92[+]~~, and provide an explanation



1 for not meeting the renewable portfolio standard. The public
2 utilities commission, after allowing an appropriate period of
3 public comment, shall have the option to either grant a waiver
4 from the renewable portfolio standard or an extension for
5 meeting the prescribed standard.

6 The public utilities commission may provide incentives to
7 encourage electric utility companies to exceed their renewable
8 portfolio standards or to meet their renewable portfolio
9 standards ahead of time, or both."

10 PART III

11 SECTION 6. Section 269-91, Hawaii Revised Statutes, is
12 amended by adding a new definition to be appropriately inserted
13 and to read as follows:

14 "Gas utility company" means a public utility, as defined
15 under section 269-1, for the production, conveyance,
16 transmission, delivery, or furnishing of gas."

17 SECTION 7. Chapter 269, part V, Hawaii Revised Statutes,
18 is amended by adding three new sections to be appropriately
19 designated and to read as follows:

20 **"§269-A Renewable portfolio standards for gas utility**
21 **companies.** (a) Each gas utility company that sells gas for



1 consumption in the State shall establish a renewable portfolio
2 standard of:

3 (1) Twenty-five per cent of its total sales by
4 December 31, 2025;

5 (2) Forty per cent of its total sales by December 31,
6 2030;

7 (3) Seventy per cent of its total sales by December 31,
8 2040; and

9 (4) One hundred per cent of its total sales by
10 December 31, 2045.

11 For the purpose of this section, "total sales" shall mean
12 the sales of all gas in the State by a gas utility company, by
13 its corporate parent, and by its corporate parent's subsidiary
14 entities, partners, joint venturers, and affiliate entities.

15 (b) The public utilities commission may establish
16 standards for each gas utility company that prescribe the
17 portion of the renewable portfolio standards that shall be met
18 by specific types of renewable energy resources; provided that
19 where gas is composed of co-mingled fossil and renewable fuels,
20 the renewable energy component of such gas shall be considered
21 to be in direct proportion to the percentage of the total heat



1 output value represented by the heat output value of the fuels
2 derived from renewable energy.

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

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

- 17 (1) Weather-related damage;
- 18 (2) Natural disasters;
- 19 (3) Mechanical or resource failure;



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- 1 (4) Failure of renewable gas producers or suppliers to
2 meet contractual obligations to the gas utility
3 company;
- 4 (5) Labor strikes or lockouts;
- 5 (6) Actions of governmental authorities that adversely
6 affect the procurement of renewable gas energy under
7 contract to a gas utility company;
- 8 (7) Inability to obtain permits or land use approvals for
9 renewable gas projects;
- 10 (8) Inability to acquire sufficient renewable gas to meet
11 the renewable portfolio standard goals for 2040 and
12 for years beyond in a manner that is cost-effective or
13 beneficial to Hawaii's economy in relation to
14 comparable fossil fuel resources;
- 15 (9) Substantial limitations, restrictions, or prohibitions
16 on utility renewable gas projects; and
- 17 (10) Other events and circumstances of a similar nature
18 that could not be reasonably foreseen and ameliorated.
- 19 (e) For the purposes of this section:
- 20 "Cost effective" means the ability to produce or purchase
21 gas from renewable gas resources at or below avoided costs or as



1 the public utilities commission otherwise determines to be just
2 and reasonable.

3 "Renewable portfolio standard" means the percentage of gas
4 sales that is represented by fuels derived from renewable
5 energy."

6 **§269-B Achieving gas utility company portfolio standard.**

7 (a) A gas utility company and its gas utility affiliates may
8 aggregate their renewable portfolios to achieve the renewable
9 portfolio standard, as established and defined in section 269-A.

10 (b) If a gas utility company and its gas utility
11 affiliates aggregate their renewable portfolios to achieve the
12 renewable portfolio standard, the public utilities commission
13 may distribute, apportion, or allocate the costs and expenses of
14 all or any portion of the respective renewable portfolios among
15 the gas utility company, its gas utility affiliates, and their
16 respective ratepayers, as is reasonable under the circumstances.

17 (c) A gas utility company may recover, through an
18 automatic rate adjustment clause, the gas utility company's
19 revenue requirement resulting from the distribution,
20 apportionment, or allocation of the costs and expenses of the



1 renewable portfolios of the gas utility company and its gas
2 utility affiliates.

3 (d) To provide for timely recovery of the revenue
4 requirement under subsection (c), the public utilities
5 commission may establish a separate automatic rate adjustment
6 clause, or approve the use of a previously approved automatic
7 rate adjustment clause, without a rate case filing. The use of
8 the automatic rate adjustment clause to recover the revenue
9 requirement shall be allowed to continue until the revenue
10 requirement is incorporated in rates in the respective gas
11 utility company's rate case.

12 **§269-C Waivers, extensions, and incentives for gas utility**
13 **companies.** Any gas utility company not meeting the renewable
14 portfolio standard, as established and defined in section 269-A,
15 shall report to the public utilities commission within ninety
16 days following the goal dates established in section 269-A, and
17 provide an explanation for not meeting the renewable portfolio
18 standard. The public utilities commission, after allowing an
19 appropriate period of public comment, shall have the option to
20 either grant a waiver from the renewable portfolio standard or
21 an extension for meeting the prescribed standard.



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Report Title:

Renewable Energy; Renewable Portfolio Standard; Electricity;
Gas; Public Utilities Commission

Description:

Amends the definition of renewable portfolio standard for electric utility companies to be a percentage of electrical energy generation, rather than sales. Defines a renewable portfolio standard for gas utility companies. Requires gas utility companies to establish renewable energy portfolio standards and provides a means for gas utility companies to achieve the renewable energy 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.

