

ACT 95

S.B. NO. 2474

A Bill for an Act Relating to Renewable Energy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Building a sustainable future in Hawaii requires the government to take a leadership role in developing programs and initiatives designed to encourage people to live within their means. The legislature finds that a significant impediment to the goal of sustainability is the large imbalance between the amount of goods and services exported from Hawaii in comparison to the amount of goods and services imported to Hawaii. Specifically, the legislature notes that Hawaii exports only \$2,000,000,000 a year in goods and services while at the same time importing \$15,000,000,000 in goods and services.

Enterprise Honolulu stated that “a key characteristic of a healthy economy is that it exports more than it imports. If payments for imports exceed payments for exports, we have a ‘trade deficit.’ Just like a negative balance in your checking account impacts your household, if a trade deficit continues too long, the region’s quality of life begins a downward slide.”

The legislature finds that Hawaii imports between \$2,000,000,000 and \$3,000,000,000 worth of oil annually. These figures represent a growing dependence on oil imports.

The legislature finds that the key to achieving sustainability lies in economic diversification, export expansion, and import substitution. In the energy context, import substitution may be achieved by increasing the use and development of renewable energy resources found in Hawaii, such as wind, solar, ocean thermal, wave, and biomass resources. In addition, developing Hawaii’s renewable energy

resources offers important job creation, environmental protection, and energy security benefits.

The legislature further finds that the State should be a strategic partner with the private sector in developing these renewable energy resources, and that the State's willingness and intent to provide relevant and meaningful support for this endeavor should be embedded into public policy.

The purpose of this Act is to decrease Hawaii's need to import large amounts of oil, and increase import substitution, economic efficiency, and productivity, by increasing the use and development of Hawaii's renewable energy resources through a partnership between the State and the private sector.

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

“§269- State support for achieving renewable portfolio standards. (a) The department of land and natural resources and department of business, economic development and tourism shall facilitate the private sector's development of renewable energy projects by supporting the private sector's attainment of the renewable portfolio standards in section 269-92. Both departments shall provide meaningful support in areas relevant to the mission and functions of each department as provided in this section, as well as in other areas the directors of each department may deem appropriate.

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

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

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

(c) The department of business, economic development and tourism shall:

(1) Develop a program to maximize the use of renewable energy and cost-effective conservation measures by state government agencies;

(2) Work with federal agencies to develop as much research, development and demonstration funding, and technical assistance as possible to support Hawaii in its efforts to achieve its renewable portfolio standards; and

(3) Biennially, beginning in January 2006, issue a progress report to the governor and legislature.

§269- Renewable portfolio standards study. The public utilities commission shall:

(1) By December 31, 2006, develop and implement a utility ratemaking structure which may include but is not limited to performance-based ratemaking, to provide incentives that encourage Hawaii's electric utility companies to use cost-effective renewable energy resources found in Hawaii to meet the renewable portfolio standards established in section 269-92, while allowing for deviation from the standards in the event that the standards cannot be met in a cost-effective manner, or as a result of circumstances beyond the control of the utility which could not have been reasonably anticipated or ameliorated;

(2) Gather, review, and analyze empirical data to determine the extent to which any proposed utility ratemaking structure would impact electric utility companies' profit margins, and to ensure that these profit mar-

- gins do not decrease as a result of the implementation of the proposed ratemaking structure;
- (3) Using funds from the public utilities special fund, contract with the Hawaii natural energy institute of the University of Hawaii to conduct independent studies to be reviewed by a panel of experts from entities such as the United States Department of Energy, National Renewable Energy Laboratory, Electric Power Research Institute, Hawaii electric utility companies, and other similar institutions with the required expertise. These studies shall include findings and recommendations regarding:
 - (A) The capability of Hawaii's electric utility companies to achieve renewable portfolio standards in a cost-effective manner, and shall assess factors such as the impact on consumer rates, utility system reliability and stability, costs and availability of appropriate renewable energy resources and technologies, permitting approvals, impacts on the economy, culture, community, environment, land and water, demographics, and other factors deemed appropriate by the commission; and
 - (B) Projected renewable portfolio standards to be set five and ten years beyond the then current standards;
 - (4) Revise the standards based on the best information available at the time if the results of the studies conflict with the renewable portfolio standards established by section 269-92; and
 - (5) Report its findings and revisions to the renewable portfolio standards based on its own studies and those contracted under paragraph (3), to the legislature no later than twenty days before the convening of the regular session of 2009, and every five years thereafter."

SECTION 3. Section 269-27.2, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The rate payable by the public utility to the producer for the nonfossil fuel generated electricity supplied to the public utility shall be as agreed between the public utility and the supplier and as approved by the public utilities commission; provided that in the event the public utility and the supplier fail to reach an agreement for a rate, the rate shall be as prescribed by the public utilities commission according to the powers and procedures provided in this chapter.

In the exercise of its authority to determine the just and reasonable rate for the nonfossil fuel generated electricity supplied to the public utility by the producer, the commission shall establish that the rate for purchase of electricity by a public utility shall not be [less] more than one hundred per cent of the cost avoided by the utility when the utility purchases the electrical energy rather than producing the electrical energy. [~~In determining the amount of the payment in relation to avoided cost, as that cost is or shall later be defined in the rules of the commission, the commission shall consider, on a generic basis, the minimum floor a utility should pay, giving consideration not only to the near term adverse consequences to the ultimate consumers of utility provided electricity, but also to the long term desirable goal of encouraging, to the greatest extent practicable, the development of alternative sources of energy.~~

~~Nothing in this subsection shall affect existing contracts between public utilities and suppliers of nonfossil fuel generated electricity.]'~~

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

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

““Cost-effective” means the ability to produce or purchase electric energy or firm capacity, or both, from renewable energy resources at or below avoided costs.”

2. By amending the definition of “renewable energy” to read:

““Renewable energy” means electrical energy produced by wind, solar energy, hydropower, landfill gas, waste to energy, geothermal resources, ocean thermal energy conversion, wave energy, biomass, including municipal solid waste, biofuels, or fuels derived [entirely] from organic sources, hydrogen fuels derived [entirely] from renewable energy, or fuel cells where the fuel is derived [entirely] from renewable sources. Where biofuels, hydrogen, or fuel cell fuels are produced by a combination of renewable and nonrenewable means, the proportion attributable to the renewable means shall be credited as renewable energy. Where fossil and renewable fuels are co-fired in the same generating unit, the unit shall be considered to produce renewable electricity in direct proportion to the percentage of the total heat value represented by the heat value of the renewable fuels. “Renewable energy” also means electrical energy savings brought about by the use of solar and heat pump water heating[-], seawater air conditioning district cooling systems, solar air conditioning and ice storage, quantifiable energy conservation measures, use of rejected heat from co-generation and combined heat and power systems excluding fossil-fueled qualifying facilities that sell electricity to electric utility companies, and central station power projects.”

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

“[H]§269-92[3] Renewable portfolio standards. Each electric utility company that sells electricity for consumption in the State shall establish a [renewables] renewable portfolio standard [goal] of:

- (1) Seven per cent of its net electricity sales by December 31, 2003;
- (2) Eight per cent of its net electricity sales by December 31, 2005; [and]
- (3) [Nine] Ten per cent of its net electricity sales by December 31, 2010[-];
- (4) Fifteen per cent of its net electricity sales by December 31, 2015; and
- (5) Twenty per cent of its net electricity sales by December 31, 2020.

The public utilities commission shall determine if an electric utility company is unable to meet the renewable portfolio standards in a cost-effective manner, or as a result of circumstances beyond its control which could not have been reasonably anticipated or ameliorated. If this determination is made, the electric utility company shall be relieved of responsibility for meeting the renewable portfolio standard for the period of time that it is unable to meet the standard.”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval.

(Approved June 2, 2004.)

Note

1. Edited pursuant to HRS §23G-16.5.