
A BILL FOR AN ACT

RELATING TO ENERGY.

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

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

4 "§269-A Public benefits fund; authorization. (a) The
5 public utilities commission, by order or rule, may redirect all
6 or a portion of the funds collected through the current
7 demand-side management surcharge by Hawaii's electric utilities
8 into a public benefits fund that may be established by the
9 public utilities commission.

10 (b) If the public utilities commission establishes a
11 public benefits fund, the surcharge shall be known as the public
12 benefits fee. Moneys in the fund shall be ratepayer funds that
13 shall be used to support energy-efficiency and demand-side
14 management programs and services, subject to the review and
15 approval of the public utilities commission. These moneys shall
16 not be available to meet any current or past general obligations
17 of the State.



1 **§269-B Public benefits fund administrator; establishment.**

2 (a) If the public utilities commission establishes a public
3 benefits fund, the public utilities commission shall appoint a
4 fund administrator to operate and manage any programs
5 established under section 269-A. The fund administrator shall
6 not expend more than ten per cent of the fund in any fiscal
7 year, or other reasonable percentage determined by the public
8 utilities commission, for administration of the programs
9 established under section 269-A.

10 (b) The fund administrator shall be subject to regulation
11 by the public utilities commission, including pursuant to
12 sections 269-7, 269-8, 269-8.2, 269-8.5, 269-9, 269-10, 269-13,
13 269-15, 269-19.5, and 269-28, and shall report to the public
14 utilities commission on a regular basis. Notwithstanding any
15 other provision of law to the contrary, the fund administrator
16 shall not be an electric public utility or an electric public
17 utility affiliate.

18 **§269-C Requirements for the public benefits fund**

19 **administrator.** (a) Any fund administrator appointed pursuant
20 to section 269-B shall satisfy the qualification requirements
21 established by the public utilities commission by rule or order.
22 These requirements may include experience and expertise in:



1 (1) Energy-efficient and renewable energy technologies and
2 methods; and

3 (2) Identifying, developing, administering, and
4 implementing demand-side management and
5 energy-efficiency programs.

6 (b) The fund administrator's duties and responsibilities
7 shall be established by the public utilities commission by rule
8 or order, and may include:

9 (1) Identifying, developing, administering, promoting,
10 implementing, and evaluating programs, methods, and
11 technologies that support energy-efficiency and
12 demand-side management programs;

13 (2) Encouraging the continuance or improvement of
14 efficiencies made in the production, delivery, and use
15 of energy-efficiency and demand-side management
16 programs and services;

17 (3) Using the energy-efficiency expertise and capabilities
18 that have developed or may develop in the State and
19 consulting with state agency experts;

20 (4) Promoting program initiatives, incentives, and market
21 strategies that address the needs of persons facing
22 the most significant barriers to participation;



1 (5) Promoting coordinated program delivery, including
2 coordination with electric public utilities regarding
3 the delivery of low-income home energy assistance,
4 other demand-side management or energy-efficiency
5 programs, and any utility programs;

6 (6) Consideration of innovative approaches to delivering
7 demand-side management and energy-efficiency services,
8 including strategies to encourage third party
9 financing and customer contributions to the cost of
10 demand-side management and energy-efficiency services;
11 and

12 (7) Submitting, to the public utilities commission for
13 review and approval, a multi-year budget and planning
14 cycle that promotes program improvement, program
15 stability, and maturation of programs and delivery
16 resources.

17 §269-D Transitioning from utility demand-side management
18 programs to the public benefits fund. If the public utilities
19 commission establishes a public benefits fund pursuant to
20 section 269-A, the public utilities commission shall:

21 (1) Develop a transition plan that ensures that:



- 1 (A) Utility demand-side management programs are
2 continued, to the extent practicable, until the
3 transition date; and
- 4 (B) The fund administrator will be able to provide
5 demand-side management and energy-efficiency
6 services on the transition date;
- 7 (2) Encourage programs that allow all retail electricity
8 customers, including state and county agencies,
9 regardless of the retail electricity or gas provider,
10 to have an opportunity to participate in and benefit
11 from a comprehensive set of cost-effective demand-side
12 management and energy-efficiency programs and
13 initiatives designed to overcome barriers to
14 participation;
- 15 (3) Encourage programs, measures, and delivery mechanisms
16 that reasonably reflect current and projected utility
17 integrated resource planning, market conditions,
18 technological options, and environmental benefits;
- 19 (4) Facilitate the delivery of these programs as rapidly
20 as possible, taking into consideration the need for
21 these services and cost-effective delivery mechanisms;



- 1 (5) Consider the unique geographic location of the State
2 and the high costs of energy in developing programs
3 that will promote technologies to advance energy
4 efficiency and use of renewable energy and permit the
5 State to take advantage of activities undertaken in
6 other states, including the opportunity for multi-
7 state programs;
- 8 (6) Require the fund administrator appointed by the public
9 utilities commission under section 269-B to deliver
10 programs in an effective, efficient, timely, and
11 competent manner and to meet standards that are
12 consistent with state policy and public utilities
13 commission policy; and
- 14 (7) Before January 2, 2008, and every three years
15 thereafter, require verification by an independent
16 auditor of the reported energy and capacity savings
17 and incremental renewable energy production savings
18 associated with the programs delivered by the fund
19 administrator appointed by the public utilities
20 commission to deliver energy-efficiency and demand-
21 side management programs under section 269-A."



1 SECTION 2. Section 269-16, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§269-16 Regulation of utility rates; ratemaking**
4 **procedures.** (a) All rates, fares, charges, classifications,
5 schedules, rules, and practices made, charged, or observed by
6 any public utility[~~7~~] or by two or more public utilities
7 jointly[~~7~~] shall be just and reasonable and shall be filed with
8 the public utilities commission. The rates, fares,
9 classifications, charges, and rules of every public utility
10 shall be published by the public utility in such manner as the
11 public utilities commission may require, and copies shall be
12 furnished to any person on request.

13 To the extent the contested case proceedings referred to in
14 chapter 91 are required in any rate proceeding [~~in order~~] to
15 ensure fairness and to provide due process to parties [~~which~~]
16 that may be affected by rates approved by the commission, [~~such~~]
17 the evidentiary hearings shall be conducted expeditiously and
18 shall be conducted as a part of the ratemaking proceeding.

19 (b) No rate, fare, charge, classification, schedule, rule,
20 or practice, other than one established pursuant to an automatic
21 rate adjustment clause previously approved by the commission,
22 shall be established, abandoned, modified, or departed from by



1 any public utility, except after thirty days' notice to the
2 commission as prescribed in section 269-12(b) [~~to the~~
3 ~~commission~~], and prior approval by the commission for any
4 increases in rates, fares, or charges. The commission [~~may~~], in
5 its discretion and for good cause shown, may allow any rate,
6 fare, charge, classification, schedule, rule, or practice to be
7 established, abandoned, modified, or departed from upon notice
8 less than that provided for in section 269-12(b). A contested
9 case hearing shall be held in connection with any increase in
10 rates, and [~~such~~] the hearing shall be preceded by a public
11 hearing as prescribed in section 269-12(c), at which the
12 consumers or patrons of the public utility may present testimony
13 to the commission concerning the increase. The commission, upon
14 notice to the public utility, may [~~suspend~~]:

15 (1) Suspend the operation of all or any part of the
16 proposed rate, fare, charge, classification, schedule,
17 rule, or practice or any proposed abandonment or
18 modification thereof or departure therefrom [~~after~~];

19 (2) After a hearing, by order [~~regulate~~]:

20 (A) Regulate, fix, and change all such rates, fares,
21 charges, classifications, schedules, rules, and



1 practices [7] so that the same shall be just and
2 reasonable [~~and prohibit~~];

3 (B) Prohibit rebates and unreasonable discrimination
4 between localities [7] or between users or
5 consumers [7] under substantially similar
6 conditions [~~regulate~~];

7 (C) Regulate the manner in which the property of
8 every public utility is operated with reference
9 to the safety and accommodation of the public [~~prescribe~~];

11 (D) Prescribe its form and method of keeping
12 accounts, books, and records, and its accounting
13 system [~~regulate~~];

14 (E) Regulate the return upon its public utility
15 property [7];

16 (F) Regulate the incurring of indebtedness relating
17 to its public utility business [7]; and

18 (G) Regulate its financial transactions; and [~~de~~]

19 (3) Do all things [~~in addition which~~] that are necessary
20 and in the exercise of [~~such~~] the commission's power
21 and jurisdiction, all of which as so ordered,
22 regulated, fixed, and changed [~~shall be~~] are just and



1 reasonable, and [~~such as shall~~] provide a fair return
2 on the property of the utility actually used or useful
3 for public utility purposes.

4 (c) The commission may in its discretion [~~and~~], after
5 public hearing[~~7~~] and upon showing by a public utility of
6 probable entitlement and financial need, authorize temporary
7 increases in rates, fares, and charges; provided that the
8 commission shall require by order [~~require~~] the public utility
9 to return, in the form of an adjustment to rates, fares, or
10 charges to be billed in the future, any amounts[~~7~~] with
11 interest, at a rate equal to the rate of return on [~~such~~] the
12 public utility's rate base found to be reasonable by the
13 commission, received by reason of [~~such~~] continued operation
14 [~~which~~] that are in excess of the rates, fares, or charges
15 finally determined to be just and reasonable by the commission.
16 Interest on any [~~such~~] excess shall commence as of the date that
17 any rate, fare, or charge goes into effect [~~which~~] that results
18 in [~~any such~~] the excess and shall continue to accrue on the
19 balance of [~~any such~~] the excess until returned.

20 (d) The commission shall make every effort to complete its
21 deliberations and issue its decision as expeditiously as
22 possible and before nine months from the date the public utility



1 filed its completed application; provided that in carrying out
2 this mandate, the commission shall require all parties to a
3 proceeding to comply strictly with procedural time schedules
4 [which] that it establishes. If a decision is rendered after
5 the nine-month period, the commission shall report in writing
6 [~~report~~] the reasons therefor to the legislature within thirty
7 days after rendering the decision.

8 Notwithstanding subsection (c), if the commission has not
9 issued its final decision on a public utility's rate application
10 within the nine-month period stated in this section, the
11 commission [~~shall~~], within one month after the expiration of the
12 nine-month period, shall render an interim decision allowing the
13 increase in rates, fares and charges, if any, to which the
14 commission, based on the evidentiary record before it, believes
15 the public utility is probably entitled. The commission may
16 postpone its interim rate decision for thirty days if the
17 commission considers the evidentiary hearings incomplete. In
18 the event interim rates are made effective, the commission shall
19 require by order [~~require~~] the public utility to return, in the
20 form of an adjustment to rates, fares, or charges to be billed
21 in the future, any amounts [7] with interest, at a rate equal to
22 the rate of return on [~~such~~] the public utility's rate base



1 found to be reasonable by the commission, received under [~~such~~]
2 the interim rates [~~which~~] that are in excess of the rates,
3 fares, or charges finally determined to be just and reasonable
4 by the commission. Interest on any [~~such~~] excess shall commence
5 as of the date that any rate, fare, or charge goes into effect
6 [~~which~~] that results in [~~any such~~] the excess and shall continue
7 to accrue on the balance of [~~any such~~] the excess until
8 returned.

9 The nine-month period in this subsection shall begin only
10 after a completed application has been filed with the commission
11 and a copy served on the consumer advocate. The commission
12 shall establish standards concerning the data required to be set
13 forth in the application in order for it to be deemed a
14 completed application. The consumer advocate may, within
15 twenty-one days after receipt, object to the sufficiency of any
16 application, and the commission shall hear and determine any
17 [~~such~~] objection within twenty-one days after [~~the same~~] it is
18 filed. If the commission finds that the objections are without
19 merit, the application shall be deemed to have been completed
20 upon original filing. If the commission finds the application
21 to be incomplete, it shall require the applicant to submit an
22 amended application consistent with its findings, and the nine-



1 month period shall not commence until the amended application is
2 filed.

3 (e) In any case of two or more organizations, trades, or
4 businesses (whether or not incorporated, whether or not
5 organized in the State of Hawaii, and whether or not affiliated)
6 owned or controlled directly or indirectly by the same
7 interests, the commission may distribute, apportion, or allocate
8 gross income, deductions, credits, or allowances between or
9 among the organizations, trades, or businesses, if it determines
10 that the distribution, apportionment, or allocation is necessary
11 [~~in order~~] to adequately reflect the income of any such
12 organizations, trades, or businesses to carry out the regulatory
13 duties imposed by this section.

14 (f) Notwithstanding any law to the contrary, for public
15 utilities having annual gross revenues of less than \$2,000,000,
16 the commission may make and amend its rules and procedures
17 [~~which will~~] to provide the commission with sufficient facts
18 necessary to determine the reasonableness of the proposed rates
19 without unduly burdening the utility company and its customers.
20 In the determination of the reasonableness of the proposed
21 rates, the commission shall:



- 1 (1) Require the filing of a standard form application to
2 be developed by the commission. The standard form
3 application for general rate increases shall describe
4 the specific facts that [~~must~~] shall be submitted to
5 support a determination of the reasonableness of the
6 proposed rates, and require the submission of
7 financial information in conformance with a standard
8 chart of accounts to be approved by the commission,
9 and other commission guidelines to allow expeditious
10 review of a requested general rate increase
11 application;
- 12 (2) Hold a public hearing as prescribed in section
13 269-12(c) at which the consumers or patrons of the
14 public utility may present testimony to the commission
15 concerning the increase. The public hearing shall be
16 preceded by proper notice, as prescribed in section
17 269-12; and
- 18 (3) Make every effort to complete its deliberations and
19 issue a proposed decision and order within six months
20 from the date the public utility files a completed
21 application with the commission[7];i provided that all
22 parties to the proceeding strictly comply with the



1 procedural schedule established by the commission and
2 no person is permitted to intervene. If a proposed
3 decision and order is rendered after the six-month
4 period, the commission shall report in writing the
5 reasons therefor to the legislature within thirty days
6 after rendering the proposed decision and order.

7 Prior to the issuance of the commission's proposed
8 decision and order, the parties shall not be entitled
9 to a contested case hearing.

10 If all parties to the proceeding accept the
11 proposed decision and order, the parties shall not be
12 entitled to a contested case hearing, and section
13 269-15.5 shall not apply. If the commission permits a
14 person to intervene, the six-month period shall not
15 apply and the commission shall make every effort to
16 complete its deliberations and issue its decision
17 within the nine-month period from the date the public
18 utility's completed application was filed, pursuant to
19 subsections (b), (c), and (d).

20 If a party does not accept the proposed decision
21 and order, either in whole or in part, that party
22 shall give notice of its objection or nonacceptance



1 within the timeframe prescribed by the commission in
2 the proposed decision and order, setting forth the
3 basis for its objection or nonacceptance; provided
4 that the proposed decision and order shall have no
5 force or effect pending the commission's final
6 decision. If notice is filed, the above six-month
7 period shall not apply and the commission shall make
8 every effort to complete its deliberations and issue
9 its decision within the nine-month period from the
10 date the public utility's completed application was
11 filed as set forth in subsection (d). Any party that
12 does not accept the proposed decision and order under
13 this paragraph shall be entitled to a contested case
14 hearing; provided that the parties to the proceeding
15 may waive the contested case hearing.

16 Public utilities subject to this subsection shall follow
17 the standard chart of accounts to be approved by the commission
18 for financial reporting purposes. The public utilities shall
19 file a certified copy of the annual financial statements in
20 addition to an updated chart of accounts used to maintain their
21 financial records with the commission and consumer advocate
22 within ninety days from the end of each calendar or fiscal year,



1 as applicable, unless this timeframe is extended by the
2 commission. The owner, officer, general partner, or authorized
3 agent of the utility shall certify that the reports were
4 prepared in accordance with the standard chart of accounts.

5 (g) Any automatic fuel rate adjustment clause requested by
6 a public utility in an application filed with the commission
7 shall be designed, as determined in the commission's discretion,
8 to:

- 9 (1) Fairly share the risk of fuel cost changes between the
10 public utility and its customers;
- 11 (2) Provide the public utility with sufficient incentive
12 to reasonably manage or lower its fuel costs and
13 encourage greater use of renewable energy;
- 14 (3) Allow the public utility to mitigate the risk of
15 sudden or frequent fuel cost changes that cannot
16 otherwise reasonably be mitigated through other
17 commercially available means, such as through fuel
18 hedging contracts;
- 19 (4) Preserve, to the extent reasonably possible, the
20 public utility's financial integrity; and
- 21 (5) Minimize, to the extent reasonably possible, the
22 public utility's need to apply for frequent



1 applications for general rate increases to account for
2 the changes to its fuel costs."

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

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

13 In the exercise of its authority to determine the just and
14 reasonable rate for the nonfossil fuel generated electricity
15 supplied to the public utility by the producer, the commission
16 shall establish that the rate for purchase of electricity by a
17 public utility shall not be more than one hundred per cent of
18 the cost avoided by the utility when the utility purchases the
19 electrical energy rather than producing the electrical energy.

20 The commission's determination of the just and reasonable
21 rate shall be accomplished by establishing a methodology that
22 removes or significantly reduces any linkage between the price



1 of fossil fuels and the rate for the nonfossil fuel generated
2 electricity to potentially enable utility customers to share in
3 the benefits of fuel cost savings resulting from the use of
4 nonfossil fuel generated electricity. As the commission deems
5 appropriate, the just and reasonable rate for nonfossil fuel
6 generated electricity supplied to the public utility by the
7 producer may include mechanisms for reasonable and appropriate
8 incremental adjustments, such as adjustments linked to consumer
9 price indices for inflation or other acceptable adjustment
10 mechanisms."

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

13 1. By adding two new definitions to be appropriately
14 inserted and to read:

15 "Biofuels" means liquid or gaseous fuels produced from
16 organic sources such as biomass crops, agricultural residues and
17 oil crops, such as palm oil, canola oil, soybean oil, waste
18 cooking oil, grease, and food wastes, animal residues and
19 wastes, and sewage and landfill wastes.

20 "Renewable electrical energy" means:

21 (1) Electrical energy generated using renewable energy as
22 the source;



1 (2) Electrical energy savings brought about by the use of
2 renewable displacement or off-set technologies,
3 including solar water heating, seawater air-
4 conditioning district cooling systems, solar air-
5 conditioning, and customer-sited, grid-connected
6 renewable energy systems; or

7 (C) Electrical energy savings brought about by the
8 use of energy efficiency technologies, including
9 heat pump water heating, ice storage, ratepayer-
10 funded energy efficiency programs, and use of
11 rejected heat from co-generation and combined
12 heat and power systems, excluding fossil-fueled
13 qualifying facilities that sell electricity to
14 electric utility companies and central station
15 power projects."

16 2. By amending the definitions of "cost effective",
17 "renewable energy", and "renewable portfolio standard" and
18 "renewable portfolio standard" to read:

19 "'Cost-effective" means the ability to produce or purchase
20 electric energy or firm capacity, or both, from renewable energy
21 resources at or below avoided costs[-] consistent with the



1 methodology set by the public utilities commission in accordance
2 with section 269-27.2."

3 "Renewable energy" means [~~electrical energy produced by~~
4 ~~wind, solar energy, hydropower, landfill gas, waste to energy,~~
5 ~~geothermal resources, ocean thermal energy conversion, wave~~
6 ~~energy, biomass, including municipal solid waste, biofuels, or~~
7 ~~fuels derived from organic sources, hydrogen fuels derived from~~
8 ~~renewable energy, or fuel cells where the fuel is derived from~~
9 ~~renewable sources. Where biofuels, hydrogen, or fuel cell fuels~~
10 ~~are produced by a combination of renewable and nonrenewable~~
11 ~~means, the proportion attributable to the renewable means shall~~
12 ~~be credited as renewable energy. Where fossil and renewable~~
13 ~~fuels are co fired in the same generating unit, the unit shall~~
14 ~~be considered to produce renewable electricity in direct~~
15 ~~proportion to the percentage of the total heat value represented~~
16 ~~by the heat value of the renewable fuels. "Renewable energy"~~
17 ~~also means electrical energy savings brought about by the use of~~
18 ~~solar and heat pump water heating, seawater air conditioning~~
19 ~~district cooling systems, solar air conditioning and ice~~
20 ~~storage, quantifiable energy conservation measures, use of~~
21 ~~rejected heat from co-generation and combined heat and power~~
22 ~~systems excluding fossil fueled qualifying facilities that sell~~



1 ~~electricity to electric utility companies, and central station~~
2 ~~power projects]~~ energy generated or produced utilizing the
3 following sources:

4 (1) Wind;

5 (2) The sun;

6 (3) Falling water;

7 (4) Biogas, including landfill and sewage-based digester
8 gas;

9 (5) Geothermal;

10 (6) Ocean water, currents and waves;

11 (7) Biomass, including biomass crops, agricultural and
12 animal residues and wastes, and municipal solid waste;

13 (8) Biofuels; and

14 (9) Hydrogen produced from renewable energy sources.

15 "Renewable portfolio standard" means the percentage of
16 electrical energy sales that is represented by renewable
17 electrical energy."

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

20 "**§269-92 Renewable portfolio standards.** (a) Each
21 electric utility company that sells electricity for consumption
22 in the State shall establish a renewable portfolio standard of:



- 1 ~~[(1) Seven per cent of its net electricity sales by~~
2 ~~December 31, 2003;~~
- 3 ~~(2) Eight per cent of its net electricity sales by~~
4 ~~December 31, 2005;~~
- 5 ~~(3)]~~ (1) Ten per cent of its net electricity sales by
6 December 31, 2010;
- 7 ~~[(4)]~~ (2) Fifteen per cent of its net electricity sales by
8 December 31, 2015; and
- 9 ~~[(5)]~~ (3) Twenty per cent of its net electricity sales by
10 December 31, 2020.

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

19 (b) The public utilities commission may establish
20 standards for each utility that prescribe what portion of the
21 renewable portfolio standards shall be met by specific types of
22 renewable electrical energy resources; provided that:



- 1 (1) At least fifty per cent of the renewable portfolio
2 standards shall be met by electrical energy generated
3 using renewable energy as the source;
- 4 (2) Where electrical energy is generated or displaced by a
5 combination of renewable and nonrenewable means, the
6 proportion attributable to the renewable means shall
7 be credited as renewable energy; and
- 8 (3) Where fossil and renewable fuels are co-fired in the
9 same generating unit, the unit shall be considered to
10 generate renewable electrical energy (electricity) in
11 direct proportion to the percentage of the total heat
12 value represented by the heat value of the renewable
13 fuels.
- 14 (c) If the public utilities commission determines that an
15 electric utility company failed to meet the renewable portfolio
16 standard, after a hearing in accordance with chapter 91, the
17 utility shall be subject to penalties to be established by the
18 public utilities commission; provided that if the commission
19 determines that the electric utility company is unable to meet
20 the renewable portfolio standards due to reasons beyond the
21 reasonable control of an electric utility, as set forth in



1 subsection (d), the commission, in its discretion, may waive in
2 whole or in part any otherwise applicable penalties.

3 (d) Events or circumstances that are outside of an
4 electric utility company's reasonable control may include, to
5 the extent the event or circumstance could not be reasonably
6 foreseen and ameliorated:

7 (1) Weather-related damage;

8 (2) Natural disasters;

9 (3) Mechanical or resource failure;

10 (4) Failure of renewable electrical energy producers to
11 meet contractual obligations to the electric utility
12 company;

13 (5) Labor strikes or lockouts;

14 (6) Actions of governmental authorities that adversely
15 affect the generation, transmission, or distribution
16 of renewable electrical energy under contract to an
17 electric utility company;

18 (7) Inability to acquire sufficient renewable electrical
19 energy due to lapsing of tax credits related to
20 renewable energy development;

21 (8) Inability to obtain permits or land use approvals for
22 renewable electrical energy projects;



- 1 (9) Inability to acquire sufficient cost-effective
- 2 renewable electrical energy;
- 3 (10) Substantial limitations, restrictions, or prohibitions
- 4 on utility renewable electrical energy projects; and
- 5 (11) Other events and circumstances of a similar nature."

6 SECTION 6. Section 269-95, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[~~f~~]§269-95[~~}]~~ **Renewable portfolio standards study.** The
9 public utilities commission shall:

- 10 (1) By December 31, [~~2006,~~] 2007, develop and implement a
- 11 utility ratemaking structure, which may include [~~but~~
- 12 ~~is not limited to]~~ performance-based ratemaking, to
- 13 provide incentives that encourage Hawaii's electric
- 14 utility companies to use cost-effective renewable
- 15 energy resources found in Hawaii to meet the renewable
- 16 portfolio standards established in section 269-92,
- 17 while allowing for deviation from the standards in the
- 18 event that the standards cannot be met in a cost-
- 19 effective manner[~~7~~] or as a result of events or
- 20 circumstances, such as described in section 269-92(d),
- 21 beyond the control of the utility [~~which~~] that could
- 22 not have been reasonably anticipated or ameliorated;



1 (2) Gather, review, and analyze empirical data to
2 determine the extent to which any proposed utility
3 ratemaking structure would impact electric utility
4 companies' profit margins[7] and to ensure that [these
5 ~~profit margins do not decrease as a result of the~~
6 ~~implementation of the proposed ratemaking structure;~~
7 the electric utility companies' opportunity to earn a
8 fair rate of return is not diminished;

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

20 (A) The capability of Hawaii's electric utility
21 companies to achieve renewable portfolio
22 standards in a cost-effective manner[7] and shall



1 assess factors such as the impact on consumer
2 rates, utility system reliability and stability,
3 costs and availability of appropriate renewable
4 energy resources and technologies, permitting
5 approvals, [~~impacts~~] effects on the economy,
6 balance of trade, culture, community,
7 environment, land and water, climate change
8 policies, demographics, and other factors deemed
9 appropriate by the commission; and
10 (B) Projected renewable portfolio standards to be set
11 five and ten years beyond the then current
12 standards;
13 (4) Revise the standards based on the best information
14 available at the time if the results of the studies
15 conflict with the renewable portfolio standards
16 established by section 269-92; and
17 (5) Report its findings and revisions to the renewable
18 portfolio standards, based on its own studies and
19 those contracted under paragraph (3), to the
20 legislature no later than twenty days before the
21 convening of the regular session of 2009, and every
22 five years thereafter."



1 SECTION 7. In codifying the new sections added by section
2 1 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

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

7 SECTION 9. This Act shall take effect upon its approval.



Report Title:

Public Utilities Commission; Energy

Description:

Makes amendments to improve the Renewable Portfolio Standards (RPS) law. (CD1)

