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# A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

PART I

RENEWABLE PORTFOLIO STANDARDS

SECTION 1. Chapter 196, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§196- New electrical generation facility; permit prohibition.** No state or county agency shall issue a permit to any applicant for the construction or operation of a new electrical generation facility that produces electrical energy solely from the combustion of any type of fossil fuel; provided that, under extraordinary circumstances, as determined by the commission, a certificate may be issued."

SECTION 2. Section 269-7.5, Hawaii Revised Statutes, is amended to read as follows:

**"§269-7.5 Certificates of public convenience and necessity.** (a) No public utility, as defined in section 269-1, shall commence its business without first having obtained from the commission a certificate of public convenience and



1 necessity. Applications for certificates shall be made in  
2 writing to the commission and shall comply with the requirements  
3 prescribed in the commission's rules. The application shall  
4 include the type of service to be performed, the geographical  
5 scope of the operation, the type of equipment to be employed in  
6 the service, the name of competing utilities for the proposed  
7 service, a statement of its financial ability to render the  
8 proposed service, a current financial statement of the  
9 applicant, and the rates or charges proposed to be charged  
10 including the rules governing the proposed service.

11 (b) If the applicant for a certificate of public  
12 convenience and necessity has any known consumers or patrons at  
13 the time of the filing of the application, the applicant shall  
14 notify these consumers or patrons of the rates and charges  
15 proposed to be established by the application; provided that:

16 (1) The notice shall be mailed to the last known address  
17 of the consumer or patron on file with the applicant  
18 or the applicant's affiliates; and

19 (2) The manner and the fact of the notification shall be  
20 reported to the commission,  
21 within seven days from the filing of the application.



1 (c) A certificate shall be issued to any qualified  
2 applicant, authorizing the whole or any part of the operations  
3 covered by the application, if it is found that the applicant is  
4 fit, willing, and able properly to perform the service proposed  
5 and to conform to the terms, conditions, and rules adopted by  
6 the commission, and that the proposed service is, or will be,  
7 required by the present or future public convenience and  
8 necessity; otherwise the application shall be denied. Any  
9 certificate issued shall specify the service to be rendered and  
10 there shall be attached to the exercise of the privileges  
11 granted by the certificate at the time of issuance and from time  
12 to time thereafter, such reasonable conditions and limitations  
13 as a public convenience and necessity may require. The  
14 reasonableness of the rates, charges, and tariff rules proposed  
15 by the applicant shall be determined by the commission during  
16 the same proceeding examining the present and future  
17 conveniences and needs of the public and qualifications of the  
18 applicant, in accordance with the standards set forth in section  
19 269-16.

20 (d) No public utility that holds a franchise or charter  
21 enacted or granted by the legislative or executive authority of  
22 the State or its predecessor governments, or that has a bona



1 fide operation as a public utility heretofore recognized by the  
2 commission, shall be required to obtain a certificate of public  
3 convenience and necessity under this section.

4 (e) Any certificate, upon application of the holder and at  
5 the discretion of the public utilities commission, may be  
6 amended, suspended, or revoked, in whole or in part. The  
7 commission after notice and hearing may suspend, amend, or  
8 revoke any certificate in part or in whole, if the holder is  
9 found to be in wilful violation of any of the provisions of this  
10 chapter or with any lawful order or rule of the commission  
11 adopted thereunder, or with any term, condition, or limitation  
12 of the certificate.

13 (f) No certificate shall be issued to any applicant for  
14 the construction or operation of a new electrical generation  
15 facility that produces electrical energy solely from the  
16 combustion of any type of fossil fuel; provided that, under  
17 extraordinary circumstances, as determined by the commission, a  
18 certificate may be issued."

19 SECTION 3. Section 269-91, Hawaii Revised Statutes, is  
20 amended by amending the definitions of "renewable electrical  
21 energy" and "renewable energy" to read as follows:

22 "Renewable electrical energy" means:



- 1           (1) Electrical energy generated using renewable energy as  
2           the source;
- 3           (2) Electrical energy savings brought about by the use of  
4           renewable displacement or off-set technologies,  
5           including solar water heating, sea-water air-  
6           conditioning district cooling systems, solar air-  
7           conditioning, and customer-sited, grid-connected  
8           renewable energy systems; provided that, beginning  
9           January 1, 2015, electrical energy savings shall not  
10           count towards renewable energy portfolio standards;  
11           or
- 12   [+] (3) [+] Electrical energy savings brought about by the use of  
13           energy efficiency technologies, including heat pump  
14           water heating, ice storage, ratepayer- funded energy  
15           efficiency programs, and use of rejected heat from co-  
16           generation and combined heat and power systems,  
17           excluding fossil-fueled qualifying facilities that  
18           sell electricity to electric utility companies and  
19           central station power projects[-]; provided that  
20           beginning January 1, 2015, electrical energy savings  
21           shall not count towards renewable energy portfolio  
22           standards. Beginning January 1, 2015, electrical



1           energy savings shall not include customer-sited grid-  
2           connected photovoltaic systems.

3           "Renewable energy" means energy generated or produced  
4   [utilizing] use the following sources:

- 5           (1) Wind;
- 6           (2) The sun;
- 7           (3) Falling water;
- 8           (4) Biogas, including landfill and sewage-based digester  
9           gas;
- 10          (5) Geothermal;
- 11          (6) Ocean water, currents and waves[+], including ocean  
12          thermal energy conversion;
- 13          (7) Biomass, including biomass crops, agricultural and  
14          animal residues and wastes, and [municipal] solid  
15          waste;
- 16          (8) Biofuels; and
- 17          (9) Hydrogen produced from renewable energy sources."

18           SECTION 4. Section 269-92, Hawaii Revised Statutes, is  
19   amended by amending subsections (a) and (b) to read as follows:

20           "(a) Each electric utility company that sells electricity  
21   for consumption in the [~~State~~] state shall establish a renewable  
22   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; [and]

5 (3) [~~Twenty~~] Twenty-five per cent of its net electricity  
6 sales by December 31, 2020[~~-~~]; and

7 (4) Forty per cent of its net electricity sales by  
8 December 31, 2030.

9 (b) The public utilities commission may establish  
10 standards for each utility that prescribe what portion of the  
11 renewable portfolio standards shall be met by specific types of  
12 renewable [~~electrical~~] energy resources; provided that:

13 (1) [~~At~~] Prior to January 1, 2015, at least fifty per cent  
14 of the renewable portfolio standards shall be met by  
15 electrical energy generated using renewable energy as  
16 the source[~~-~~], and after December 31, 2014, the entire  
17 renewable portfolio standard shall be met by  
18 electrical generation from renewable energy sources;

19 (2) Beginning January 1, 2015, electrical energy savings  
20 shall not count towards renewable energy portfolio  
21 standards;



1        [~~+2~~] (3) Where electrical energy is generated or displaced  
2                    by a combination of renewable and nonrenewable means,  
3                    the proportion attributable to the renewable means  
4                    shall be credited as renewable energy; and

5        [~~+3~~] (4) Where fossil and renewable fuels are co-fired in  
6                    the same generating unit, the unit shall be considered  
7                    to generate renewable electrical energy (electricity)  
8                    in direct proportion to the percentage of the total  
9                    heat value represented by the heat input value of the  
10                    renewable fuels."

11        SECTION 5. Section 269-95, Hawaii Revised Statutes, is  
12        amended to read as follows:

13        "**§269-95 Renewable portfolio standards study.** The public  
14        utilities commission shall:

15            (1) By December 31, 2007, develop and implement a utility  
16                    ratemaking structure, which may include performance-  
17                    based ratemaking, to provide incentives that encourage  
18                    Hawaii's electric utility companies to use cost-  
19                    effective renewable energy resources found in Hawaii  
20                    to meet the renewable portfolio standards established  
21                    in section 269-92, while allowing for deviation from  
22                    the standards in the event that the standards cannot





1 be met in a cost-effective manner or as a result of  
2 events or circumstances, such as described in section  
3 269-92(d), beyond the control of the utility that  
4 could not have been reasonably anticipated or  
5 ameliorated;

6 (2) Gather, review, and analyze empirical data to  
7 [determine];

8 (A) Determine the extent to which any proposed  
9 utility ratemaking structure would impact  
10 electric utility companies' profit margins [~~and~~  
11 ~~to ensure~~]; and

12 (B) Ensure that the electric utility companies'  
13 opportunity to earn a fair rate of return is not  
14 diminished;

15 (3) [~~Using~~] Use funds from the public utilities special  
16 fund, contract with the Hawaii natural energy  
17 institute of the University of Hawaii to conduct  
18 independent studies to be reviewed by a panel of  
19 experts from entities such as the United States  
20 Department of Energy, National Renewable Energy  
21 Laboratory, Electric Power Research Institute, Hawaii  
22 electric utility companies, environmental groups, and



1 other similar institutions with the required  
2 expertise. These studies shall include findings and  
3 recommendations regarding:

4 (A) The capability of Hawaii's electric utility  
5 companies to achieve renewable portfolio  
6 standards in a cost-effective manner and shall  
7 assess factors such as the impact on consumer  
8 rates[~~τ~~]; utility system reliability and  
9 stability[~~τ~~]; costs and availability of  
10 appropriate renewable energy resources and  
11 technologies[~~τ~~]; permitting approvals[~~τ~~]; effects  
12 on the economy[~~τ~~]; balance of trade, culture,  
13 community, environment, land, and water[~~τ~~];  
14 climate change policies[~~τ~~]; demographics[~~τ~~]; and  
15 other factors deemed appropriate by the  
16 commission; and

17 (B) Projected renewable portfolio standards to be set  
18 five and ten years beyond the then current  
19 standards;

20 (4) [~~Revise~~] Evaluate the standards every five years,  
21 beginning in 2013, and revise the standards based on  
22 the best information available at the time [~~if the~~



1 ~~results of the studies conflict with]~~ to determine  
2 whether the renewable portfolio standards established  
3 by section 269-92 remain achievable; and  
4 (5) Report its findings and revisions to the renewable  
5 portfolio standards, based on its own studies and  
6 [~~those contracted under paragraph (3),~~] other  
7 information to the legislature no later than twenty  
8 days before the convening of the regular session of  
9 [~~2009]~~ 2014, and every five years thereafter."

## PART II

## ENERGY RESOURCES COORDINATOR

12 SECTION 6. Section 196-4, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§196-4 Powers and duties.** Subject to the approval of the  
15 governor, the coordinator shall:

- 16 (1) Formulate plans, including objectives, criteria to  
17 measure accomplishment of objectives, programs through  
18 which the objectives are to be attained, and financial  
19 requirements for the optimum development of Hawaii's  
20 energy resources;
- 21 (2) Conduct systematic analysis of existing and proposed  
22 energy resource programs, evaluate the analysis



1 conducted by government agencies and other  
2 organizations and recommend to the governor and to the  
3 legislature programs [~~which~~] that represent the most  
4 effective allocation of resources for the development  
5 of energy sources;

6 (3) Formulate and recommend specific proposals, as  
7 necessary, for conserving energy and fuel, including  
8 the allocation and distribution thereof, to the  
9 governor and to the legislature;

10 (4) Assist public and private agencies in implementing  
11 energy conservation and related measures;

12 (5) Coordinate the State's energy conservation and  
13 allocation programs with [~~that~~] those of the federal  
14 government, other state governments, governments of  
15 nations with interest in common energy resources, and  
16 the political subdivisions of the State;

17 (6) Develop programs to encourage private and public  
18 exploration and research of alternative energy  
19 resources [~~which~~] that will benefit the State;

20 (7) Conduct public education programs to inform the public  
21 of the energy situation as may exist from time to time  
22 and of the government actions taken thereto;



- 1 (8) Serve as consultant to the governor, public agencies,  
2 and private industry on matters related to the  
3 acquisition, [~~utilization~~] use, and conservation of  
4 energy resources;
- 5 (9) Contract for services when required for implementation  
6 of this chapter;
- 7 (10) Review proposed state actions [~~which~~] that the  
8 coordinator finds to have significant effect on energy  
9 consumption and report to the governor their effect on  
10 the energy conservation program, and perform [~~such~~]  
11 other services as may be required by the governor and  
12 the legislature;
- 13 (11) Prepare and submit an annual report and [~~such~~] other  
14 reports as may be requested to the governor and to the  
15 legislature on the implementation of this chapter and  
16 all matters related to energy resources; [~~and~~]
- 17 (12) Formulate a systematic process, including the  
18 development of requirements, to identify geographic  
19 areas that contain renewable energy resource potential  
20 that may be developed in a cost-effective and  
21 environmentally benign manner and designate these  
22 areas as renewable energy zones;



- 1        (13) Develop and recommend incentive plans and programs to  
2        encourage the development of renewable energy resource  
3        projects within the renewable energy zones;
- 4        (14) Assist public and private agencies in identifying the  
5        utility transmission projects or infrastructure that  
6        are required to accommodate and facilitate the  
7        development of renewable energy resources;
- 8        (15) Assist public and private agencies in coordination  
9        with the department of budget and finance in accessing  
10       use of special purpose revenue bonds to finance the  
11       engineering, design, and construction of transmission  
12       projects and infrastructure that are deemed critical  
13       to the development of renewable energy resources;
- 14       (16) Develop the criteria or requirements for identifying  
15       and qualifying specific transmission projects or  
16       infrastructure that are critical to the development of  
17       renewable energy resources and for which the energy  
18       resources coordinator shall assist in accessing the  
19       use of special purpose revenue bonds to finance; and
- 20       [~~12~~] (17) Adopt rules for the administration of this  
21       chapter pursuant to chapter 91~~7~~; provided that the



1 rules shall be submitted to the legislature for  
2 review."

3 PART III

4 RENEWABLE ENERGY RESOURCES

5 SECTION 7. Section 209E-2, Hawaii Revised Statutes, is  
6 amended by amending the definition of "qualified business" to  
7 read as follows:

8 "Qualified business" means any corporation, partnership,  
9 or sole proprietorship authorized to do business in the [State]  
10 state that is qualified under section 209E-9, subject to the  
11 state corporate or individual income tax under chapter 235, and  
12 is:

13 (1) Engaged in manufacturing, the wholesale sale of  
14 tangible personal property as defined in section 237-  
15 4, or a service business as defined in this chapter;

16 (2) Engaged in producing agricultural products where the  
17 business is a producer as defined in section 237-5, or  
18 engaged in processing agricultural products, all or  
19 some of which were grown within an enterprise zone;

20 (3) Engaged in research, development, sale, or production  
21 of all types of genetically-engineered medical,  
22 agricultural, or maritime biotechnology products; or



- 1           (4) Engaged in [~~producing electric power from wind energy~~
- 2           ~~for sale primarily to a public utility company for~~
- 3           ~~resale to the public.] the development or production~~
- 4           of fuels, thermal energy, or electrical energy from
- 5           renewable resources, including:
- 6            (A) Wind;
- 7            (B) The sun;
- 8            (C) Falling water;
- 9            (D) Biogas, including landfill and sewage-based
- 10           digester gas;
- 11           (E) Geothermal;
- 12           (F) Ocean water, currents, and waves, including ocean
- 13           thermal energy conversion;
- 14           (G) Biomass, including biomass crops, agriculture and
- 15           animal residues and wastes, and solid waste;
- 16           (H) Biofuels; and
- 17           (I) Hydrogen produced from renewable energy sources."

PART IV

RENEWABLE ENERGY FACILITATOR

20           SECTION 8. Section 201-12.5, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:





1           "(b) The renewable energy facilitator shall have the  
2 following duties:

3           (1) Facilitate the efficient permitting of renewable  
4 energy projects~~[+]~~, including:

5           (A) The land parcel on which the facility is  
6           situated;

7           (B) Any renewable energy production structure or  
8           equipment;

9           (C) Any energy transmission line from the facility to  
10           a public utility's electricity system; and

11           (D) Any on-site infrastructure necessary for the  
12           production of electricity or biofuel from the  
13           renewable energy site;

14           (2) Initiate the implementation of key renewable energy  
15 projects by permitting various efficiency improvement  
16 strategies identified by the department;

17           (3) Administer the day-to-day coordination for renewable  
18 energy projects on behalf of the department and the  
19 day-to-day operations of the renewable energy facility  
20 siting process established in [~~Act 207, Session Laws~~  
21 ~~of Hawaii 2008~~] chapter 201N; and



1 (4) Submit periodic reports to the legislature on  
2 renewable energy facilitation activities and the  
3 progress of the renewable energy facility siting  
4 process."

5 PART V

6 RENEWABLE ENERGY PERMITTING

7 SECTION 9. Section 201N-1, Hawaii Revised Statutes, is  
8 amended by amending the definition of "renewable energy  
9 facility" or "facility" to read as follows:

10 ""Renewable energy facility" or "facility" means a new  
11 facility located in the [~~State~~] state with the capacity to  
12 produce from renewable energy [~~at least~~] between five megawatts  
13 and two hundred megawatts of electricity[-] or a biofuel  
14 production facility with a capacity to produce one million  
15 gallons annually. The term includes any of the following  
16 associated with the initial permitting and construction of the  
17 facility:

- 18 (1) The land parcel on which the facility is situated;  
19 (2) Any renewable energy production structure or  
20 equipment;



1 (3) Any energy transmission line from the facility to a  
2 public utility's electricity transmission or  
3 distribution system;

4 (4) Any on-site infrastructure; and

5 (5) Any on-site building, structure, other improvement, or  
6 equipment necessary for the production of electricity  
7 or biofuel from the renewable energy site,  
8 transmission of the electricity or biofuel, or any  
9 accommodation for employees of the facility."

10 SECTION 10. Section 201N-4, Hawaii Revised Statutes, is  
11 amended by amending subsection (g) to read as follows:

12 "(g) Each appropriate state and county agency shall  
13 diligently endeavor to process and approve or deny any permit in  
14 the permit plan no later than twelve months after a completed  
15 permit plan application is approved by the coordinator. If a  
16 permit is not approved or denied within twelve months after  
17 approval of a completed permit plan application, the permitting  
18 agency, within thirty days following the end of the twelve-month  
19 period, shall provide the coordinator with a report identifying  
20 diligent measures that are being taken by the agency to complete  
21 processing and action as soon as practicable. If a permitting  
22 agency fails to provide this report and if the permit has not



1 been approved or denied within eighteen months following the  
2 approval of a completed permit plan application by the  
3 coordinator, the permit shall be deemed approved."

4 SECTION 11. There is appropriated out of the renewable  
5 energy facility siting special fund the sum of \$1,000,000 or so  
6 much thereof as may be necessary for fiscal year 2009-2010 and  
7 the same sum or so much thereof as may be necessary for fiscal  
8 year 2010-2011 for the operation and administration of the  
9 renewable energy facility siting process.

10 The sums appropriated shall be expended by the department  
11 of business, economic development, and tourism for the purposes  
12 of this Act.

13 PART VI

14 MISCELLANEOUS

15 SECTION 12. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 13. This Act shall take effect upon its approval;  
18 provided that section 11 shall take effect on July 1, 2009.



**Report Title:**

Renewable Energy

**Description:**

Establishes comprehensive measures for increasing the production and use of renewable energy in the State. (HB1843 HD1)

