

JAN 22 2010

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. Section 196-41, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

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

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

7 (2) Work with electric utility companies, natural gas
8 utility companies, and with other renewable energy
9 developers on all applicable planning and permitting
10 processes to expedite the development of renewable
11 energy resources."

12 SECTION 2. Section 269-91, Hawaii Revised Statutes, is
13 amended by adding two new definitions to be appropriately
14 inserted and to read as follows:

15 ""Natural gas" means any hydrocarbons or mixture of
16 hydrocarbons and other gases consisting primarily of methane



1 which at normal operating conditions is in a gaseous state.

2 "Natural gas" includes synthetic natural gas.

3 "Natural gas utility company" means a public utility as
4 defined under section 269-1, for the production, conveyance,
5 transmission, delivery, or furnishing of natural gas."

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

8 **"§269-92 Renewable portfolio standards.** (a) Each
9 electric utility company that sells electricity for consumption
10 in the State shall establish a renewable portfolio standard of:

- 11 (1) Ten per cent of its net electricity sales by
12 December 31, 2010;
- 13 (2) Fifteen per cent of its net electricity sales by
14 December 31, 2015;
- 15 (3) Twenty-five per cent of its net electricity sales by
16 December 31, 2020; and
- 17 (4) Forty per cent of its net electricity sales by
18 December 31, 2030.

19 (b) Each natural gas utility company that sells natural
20 gas for consumption in the State shall establish a renewable
21 portfolio standard of:



- 1 (1) Twenty-five per cent of its natural gas sales by
- 2 December 31, 2020; and
- 3 (2) Forty per cent of its natural gas sales by
- 4 December 31, 2030.

5 [~~b~~] (c) The public utilities commission may establish
6 standards for each utility that prescribe what portion of the
7 renewable portfolio standards shall be met by specific types of
8 renewable energy resources; provided that:

- 9 (1) Prior to January 1, 2015, at least fifty per cent of
10 the renewable portfolio standards for electric utility
11 companies shall be met by electrical energy generated
12 using renewable energy as the source, and after
13 December 31, 2014, the entire renewable portfolio
14 standard for electric utility companies shall be met
15 by electrical generation from renewable energy
16 sources;
- 17 (2) Beginning January 1, 2015, electrical energy savings
18 shall not count toward renewable energy portfolio
19 standards[+] for electric utility companies;
- 20 (3) Where electrical energy or natural gas is generated or
21 displaced by a combination of renewable and
22 nonrenewable means, the proportion attributable to the



1 renewable means shall be credited as renewable energy;
2 and

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

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

20 [~~(d)~~] (e) Events or circumstances that are outside of an
21 electric or natural gas utility company's reasonable control may



1 include, to the extent the event or circumstance could not be
2 reasonably foreseen and ameliorated:

- 3 (1) Weather-related damage;
- 4 (2) Natural disasters;
- 5 (3) Mechanical or resource failure;
- 6 (4) Failure of renewable [~~electrical~~] energy producers to
7 meet contractual obligations to the electric or
8 natural gas utility company;
- 9 (5) Labor strikes or lockouts;
- 10 (6) Actions of governmental authorities that adversely
11 affect the generation, transmission, or distribution
12 of renewable [~~electrical~~] energy under contract to an
13 electric or natural gas utility company;
- 14 (7) Inability to acquire sufficient renewable [~~electrical~~]
15 energy due to lapsing of tax credits related to
16 renewable energy development;
- 17 (8) Inability to obtain permits or land use approvals for
18 renewable [~~electrical~~] energy projects;
- 19 (9) Inability to acquire sufficient cost-effective
20 renewable [~~electrical~~] energy;
- 21 (10) Substantial limitations, restrictions, or prohibitions
22 on utility renewable [~~electrical~~] energy projects; and



1 (11) Other events and circumstances of a similar nature."

2 SECTION 4. Section 269-93, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "[+]§269-93 **Achieving portfolio standard.**[+] An electric
5 utility company and its electric utility affiliates, or a
6 natural gas utility company, may aggregate their renewable
7 portfolios in order to achieve the renewable portfolio
8 standard."

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

11 "[+]§269-94 **Waivers, extensions, and incentives.**[+] Any
12 electric utility company or natural gas utility company not
13 meeting the renewable portfolio standard shall report to the
14 public utilities commission within ninety days following the
15 goal dates established in section [+]269-92[+], and provide an
16 explanation for not meeting the renewable portfolio standard.
17 The public utilities commission shall have the option to either
18 grant a waiver from the renewable portfolio standard or an
19 extension for meeting the prescribed standard.

20 The public utilities commission may provide incentives to
21 encourage electric utility companies and natural gas utility
22 companies to exceed their renewable portfolio standards or to



1 meet their renewable portfolio standards ahead of time, or
2 both."

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

5 **"§269-95 Renewable portfolio standards study.** The public
6 utilities commission shall:

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

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



1 (A) Determine the extent to which any proposed
2 utility ratemaking structure would impact
3 electric utility companies' profit margins; and
4 (B) Ensure that the electric utility companies'
5 opportunity to earn a fair rate of return is not
6 diminished;

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

18 (A) The capability of Hawaii's electric utility
19 companies and natural gas utility companies to
20 achieve renewable portfolio standards in a cost-
21 effective manner and shall assess factors such
22 as:



- 1 (i) The impact on consumer rates;
- 2 (ii) Utility system reliability and stability;
- 3 (iii) Costs and availability of appropriate
- 4 renewable energy resources and technologies;
- 5 (iv) Permitting approvals;
- 6 (v) Effects on the economy;
- 7 (vi) Balance of trade, culture, community,
- 8 environment, land, and water;
- 9 (vii) Climate change policies;
- 10 (viii) Demographics; and
- 11 (ix) Other factors deemed appropriate by the
- 12 commission; and
- 13 (B) Projected renewable portfolio standards to be set
- 14 five and ten years beyond the then current
- 15 standards;
- 16 (4) Evaluate the renewable portfolio standards every five
- 17 years, beginning in 2013, and may revise the standards
- 18 based on the best information available at the time to
- 19 determine if the standards established by section
- 20 269-92 remain effective and achievable; and
- 21 (5) Report its findings and revisions to the renewable
- 22 portfolio standards, based on its own studies and



1 other information to the legislature no later than
 2 twenty days before the convening of the regular
 3 session of 2014, and every five years thereafter."

4 SECTION 7. Statutory material to be repealed is bracketed
 5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect on July 1, 2010.

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INTRODUCED BY:

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Report Title:

Renewable Energy; Natural Gas Utility; Portfolio Standards.

Description:

Establishes renewable portfolio standards for natural gas utility companies with oversight by Public Utilities Commission. Defines "natural gas" and "natural gas utility company". Requires DLNR to work with natural gas utility companies on planning and permitting processes to expedite renewable energy resource development.

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