

JAN 28 2009

S.B. NO. 1258

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# A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1                   PART I. RENEWABLE PORTFOLIO STANDARDS

2           SECTION 1. Section 269-91, Hawaii Revised Statutes, is  
3 amended by amending the definitions of "renewable electrical  
4 energy" and "renewable energy" to read as follows:

5           ""Renewable electrical energy" means:

6           (1) Electrical energy generated using renewable energy as  
7           the source;

8           (2) Electrical energy savings brought about by the use of  
9           renewable displacement or off-set technologies,  
10           including solar water heating, seawater air-  
11           conditioning district cooling systems, solar air-  
12           conditioning, and customer-sited, grid-connected  
13           renewable energy systems; provided that, beginning in  
14           2015, electrical energy savings shall not count  
15           towards renewable energy portfolio standards; or

16           [+] (3) [+] Electrical energy savings brought about by the  
17           use of energy efficiency technologies, including heat  
18           pump water heating, ice storage, ratepayer- funded



1 energy efficiency programs, and use of rejected heat  
2 from co-generation and combined heat and power  
3 systems, excluding fossil-fueled qualifying facilities  
4 that sell electricity to electric utility companies  
5 and central station power projects[-]; provided that,  
6 beginning in 2015, electrical energy savings shall not  
7 count towards renewable energy portfolio standards.

8 "Renewable energy" means energy generated or produced  
9 utilizing the following sources:

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



1 SECTION 2. Section 269-92, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) Each electric utility company that sells electricity  
4 for consumption in the State shall establish a renewable  
5 portfolio standard of:

6 (1) Ten per cent of its net electricity sales by December  
7 31, 2010;

8 (2) Fifteen per cent of its net electricity sales by  
9 December 31, 2015; ~~and~~

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

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

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

18 (1) ~~[At]~~ Prior to January 1, 2015, at least fifty per cent  
19 of 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) Where electrical energy is generated or displaced by a  
4           combination of renewable and nonrenewable means, the  
5           proportion attributable to the renewable means shall  
6           be credited as renewable energy; [~~and~~]

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

13          (4) The public utilities commission shall not issue  
14          permits to build additional fossil-based electric  
15          generation units with rated capacity greater than two  
16          megawatts."

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

19          "**§269-95 Renewable portfolio standards study.** The public  
20          utilities commission shall:

21          (1) By December 31, 2007, develop and implement a utility  
22          ratemaking structure, which may include performance-

1 based ratemaking, to provide incentives that encourage  
2 Hawaii's electric utility companies to use cost-  
3 effective renewable energy resources found in Hawaii  
4 to meet the renewable portfolio standards established  
5 in section 269-92, while allowing for deviation from  
6 the standards in the event that the standards cannot  
7 be met in a cost-effective manner or as a result of  
8 events or circumstances, such as described in section  
9 269-92(d), beyond the control of the utility that  
10 could not have been reasonably anticipated or  
11 ameliorated;

12 (2) Gather, review, and analyze empirical data to  
13 [determine]:

14 (A) Determine the extent to which any proposed  
15 utility ratemaking structure would impact  
16 electric utility companies' profit margins [~~and~~  
17 ~~to ensure~~];

18 (B) Ensure that the electric utility companies'  
19 opportunity to earn a fair rate of return is not  
20 diminished; and

21 (C) Ensure that the electric utility companies'  
22 profit margins do not decrease as a result of the



1                   implementation of the proposed ratemaking  
2                   structure;

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

14                (A)   The capability of Hawaii's electric utility  
15                        companies to achieve renewable portfolio  
16                        standards in a cost-effective manner and shall  
17                        assess factors such as the impact on consumer  
18                        rates[  ]; utility system reliability and  
19                        stability[  ]; costs and availability of  
20                        appropriate renewable energy resources and  
21                        technologies[  ]; permitting approvals[  ]; effects  
22                        on the economy[  ]; balance of trade, culture,



1 community, environment, land and water[~~7~~];  
2 climate change policies[~~7~~]; demographics[~~7~~]; and  
3 other factors deemed appropriate by the  
4 commission; and

5 (B) Projected renewable portfolio standards to be set  
6 five and ten years beyond the then current  
7 standards;

8 (4) [~~Revise~~] Evaluate renewable energy portfolio standards  
9 every five years, beginning in 2013, and revise the  
10 standards as appropriate based on the best information  
11 available at the time [~~if the results of the studies~~  
12 ~~conflict with~~] to determine whether the renewable  
13 portfolio standards established by section 269-92[~~7~~]  
14 remain achievable; and

15 (5) Report its findings and revisions to the renewable  
16 portfolio standards, based on its own studies and  
17 [~~those contracted under paragraph (3),~~] other  
18 information, to the legislature no later than twenty  
19 days before the convening of the regular session of  
20 [~~2009,~~] 2014, and every five years thereafter."

21 PART II. NET ENERGY METERING



1 SECTION 4. Section 269-101.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§269-101.5[+] **Maximum capacity of eligible customer-**  
4 **generator.** The eligible customer-generator shall have a  
5 capacity of not more than fifty kilowatts; provided that the  
6 public utilities commission [~~may increase~~], by rule or order,  
7 may:

- 8 (1) Modify the maximum allowable capacity that eligible  
9 customer-generators may have [~~to an amount greater~~  
10 ~~than fifty kilowatts by rule or order.~~]; or
- 11 (2) Replace the maximum allowable capacity with a limit on  
12 a per-circuit basis for designated electric utility  
13 companies and direct those affected electric utility  
14 companies to perform a circuit-specific analysis to  
15 determine how the limit may be increased or mitigated  
16 for those circuits where the interconnection requests  
17 are approaching the specified limit."

18 SECTION 5. Section 269-102, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20 "(b) Each net energy metering contract or tariff shall be  
21 identical, with respect to rate structure, to the contract or  
22 tariff to which the same customer would be assigned if the





1 customer was not an eligible customer-generator[-]; provided  
2 that the public utilities commission, by rule or order, may  
3 allow designated electric utility companies to assign eligible  
4 customer-generators to other applicable rates, tariffs, or  
5 contracts that are determined by the public utilities commission  
6 to encourage increased use and development of renewable energy  
7 systems in the State. The charges for all retail rate  
8 components for eligible customer-generators shall be based  
9 exclusively on the eligible customer-generator's net kilowatt-  
10 hour consumption over a monthly billing period. Any new or  
11 additional demand charge, standby charge, customer charge,  
12 minimum monthly charge, interconnection charge, or other charge  
13 that would increase an eligible customer-generator's costs  
14 beyond those of other customers in the rate class to which the  
15 eligible customer-generator would otherwise be assigned are  
16 contrary to the intent of this section[7] and shall not form a  
17 part of net energy metering contracts or tariffs."

18 SECTION 6. Section 269-104, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§269-104 Additional customer-generators.** Notwithstanding  
21 section 269-102, an electric utility is not obligated to provide  
22 net energy metering to additional customer-generators in its



1 service area when the combined total peak generating capacity of  
2 all eligible customer-generators served by all the electric  
3 utilities in that service area furnishing net energy metering to  
4 eligible customer-generators equals .5 per cent of the system  
5 peak demand of those electric utilities; provided that the  
6 public utilities commission, by rule or order may increase [~~by~~  
7 ~~rule or order,~~] or eliminate the limit to the allowable  
8 percentage of the electric utility's system peak demand produced  
9 from eligible customer-generators in the electric utility's  
10 service area, whereupon the electric utility [~~will be obligated~~  
11 ~~to~~] shall provide net energy metering to additional eligible  
12 customer-generators in that service area [~~up to the increased~~  
13 ~~percentage amount~~]."

14 PART III. ENERGY RESOURCES COORDINATOR

15 SECTION 7. Section 196-4, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§196-4 Powers and duties.** Subject to the approval of the  
18 governor, the coordinator shall:

- 19 (1) Formulate plans, including objectives, criteria to  
20 measure accomplishment of objectives, programs through  
21 which the objectives are to be attained, and financial



- 1 requirements for the optimum development of Hawaii's  
2 energy resources;
- 3 (2) Conduct systematic analysis of existing and proposed  
4 energy resource programs, evaluate the analysis  
5 conducted by government agencies and other  
6 organizations, and recommend to the governor and to  
7 the legislature programs [~~which~~] that represent the  
8 most effective allocation of resources for the  
9 development of energy sources;
- 10 (3) Formulate and recommend specific proposals, as  
11 necessary, for conserving energy and fuel, including  
12 the allocation and distribution thereof, to the  
13 governor and to the legislature;
- 14 (4) Assist public and private agencies in implementing  
15 energy conservation and related measures;
- 16 (5) Coordinate the State's energy conservation and  
17 allocation programs with [~~that~~] those of the federal  
18 government, other state governments, governments of  
19 nations with interest in common energy resources, and  
20 the political subdivisions of the State;



- 1           (6) Develop programs to encourage private and public  
2           exploration and research of alternative energy  
3           resources [~~which~~] that will benefit the State;
- 4           (7) Conduct public education programs to inform the public  
5           of the energy situation as may exist from time to time  
6           and of the government actions taken thereto;
- 7           (8) Serve as consultant to the governor, public agencies,  
8           and private industry on matters related to the  
9           acquisition, utilization, and conservation of energy  
10          resources;
- 11          (9) Contract for services when required for implementation  
12          of this chapter;
- 13          (10) Review proposed state actions [~~which~~] that the  
14          coordinator finds to have significant effect on energy  
15          consumption and report to the governor their effect on  
16          the energy conservation program, and perform [~~such~~]  
17          other services as may be required by the governor and  
18          the legislature;
- 19          (11) Prepare and submit an annual report and [~~such~~] other  
20          reports as may be requested to the governor and to the  
21          legislature on the implementation of this chapter and  
22          all matters related to energy resources; [~~and~~]



1       (12) Formulate a systematic process, including the  
2       development of requirements, to identify geographic  
3       areas that contain renewable energy resource potential  
4       that may be developed in a cost-effective and  
5       environmentally benign manner and designate these  
6       areas as renewable energy zones;

7       (13) Develop and recommend incentives plans and programs to  
8       encourage the development of renewable energy resource  
9       projects within the renewable energy zones;

10       (14) Assist public and private agencies in identifying the  
11       utility transmission projects or infrastructure that  
12       are required to accommodate and facilitate the  
13       development of renewable energy resources;

14       (15) Assist public and private agencies in coordination  
15       with the department of budget and finance in accessing  
16       use of special purpose revenue bonds to finance the  
17       engineering, design, and construction of transmission  
18       projects and infrastructure that are deemed critical  
19       to the development of renewable energy resources;

20       (16) Develop the criteria or requirements for identifying  
21       and qualifying specific transmission projects or  
22       infrastructure that are critical to the development of



renewable energy resources; and for which the energy resources coordinator shall assist in accessing the use of special purpose revenue bonds to finance; and

[~~12~~] (17) Adopt rules for the administration of this chapter pursuant to chapter 91, provided that the rules shall be submitted to the legislature for review."

PART IV. RENEWABLE ENERGY RESOURCES

SECTION 8. Section 209E-2, Hawaii Revised Statutes, is amended by amending the definition of "qualified business" to read as follows:

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

- (1) Engaged in manufacturing, the wholesale sale of tangible personal property as defined in section 237-4, or a service business as defined in this chapter;
- (2) Engaged in producing agricultural products where the business is a producer as defined in section 237-5, or engaged in processing agricultural products, all or some of which were grown within an enterprise zone;



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

4 (4) Engaged in [~~producing electric power from wind energy~~  
5 ~~for sale primarily to a public utility company for~~  
6 ~~resale to the public.~~] the development or production  
7 of fuels, thermal energy, or electrical energy from  
8 renewable resources, including:

9 (A) Wind;

10 (B) The sun;

11 (C) Falling water;

12 (D) Biogas, including landfill and sewage-based  
13 digester gas;

14 (E) Geothermal;

15 (F) Ocean water, currents, and waves;

16 (G) Biomass, including biomass crops, agriculture and  
17 animal residues and wastes, and solid waste;

18 (H) Biofuels; and

19 (I) Hydrogen produced from renewable energy sources."

20 PART V. RENEWABLE ENERGY FACILITATOR

21 SECTION 9. Section 201-12.5, Hawaii Revised Statutes, is  
22 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[+]; 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 VI. RENEWABLE ENERGY PERMITTING

6 SECTION 10. Chapter 201N, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9 "§201N- Designation as a renewable energy facility.

10 Upon application to the coordinator, the coordinator may  
11 designate a qualifying biofuel production facility or  
12 electricity production facility with a capacity between five  
13 megawatts and two hundred megawatts as a renewable energy  
14 facility. Designations shall be made at the sole discretion of  
15 the coordinator."

16 SECTION 11. Section 201N-1, Hawaii Revised Statutes, is  
17 amended by amending the definition of "renewable energy  
18 facility" to read as follows:

19 ""Renewable energy facility" or "facility" means a new  
20 facility located in the State with the capacity to produce from  
21 renewable energy at least two hundred megawatts of  
22 electricity[-] or a biofuel production facility or electricity



1 production facility designated as a renewable energy facility by  
2 the coordinator pursuant to section 201N- . The term includes  
3 any of the following associated with the initial permitting and  
4 construction of the facility:

- 5 (1) The land parcel on which the facility is situated;
- 6 (2) Any renewable energy production structure or  
7 equipment;
- 8 (3) Any energy transmission line from the facility to a  
9 public utility's electricity transmission or  
10 distribution system;
- 11 (4) Any on-site infrastructure; and
- 12 (5) Any on-site building, structure, other improvement, or  
13 equipment necessary for the production of electricity  
14 or biofuel from the renewable energy site,  
15 transmission of the electricity or biofuel, or any  
16 accommodation for employees of the facility."

17 SECTION 12. Section 201N-4, Hawaii Revised Statutes, is  
18 amended by amending subsection (g) to read as follows:

19 "(g) Each appropriate state and county agency shall  
20 diligently endeavor to process and approve or deny any permit in  
21 the permit plan no later than twelve months after a completed  
22 permit plan application is approved by the coordinator. If a



1 permit is not approved or denied within twelve months after  
2 approval of a completed permit plan application, the permitting  
3 agency, within thirty days following the end of the twelve-month  
4 period, shall provide the coordinator with a report identifying  
5 diligent measures that are being taken by the agency to complete  
6 processing and action as soon as practicable. If no further  
7 processing and action are reported by the permitting agency  
8 within five months, the permit shall be deemed approved. If a  
9 permitting agency fails to provide this report and if the permit  
10 has not been approved or denied within eighteen months following  
11 the approval of a completed permit plan application by the  
12 coordinator, the permit shall be deemed approved."

13 SECTION 13. There is appropriated out of the renewable  
14 energy facility siting special fund the sum of \$1,000,000 or so  
15 much thereof as may be necessary for fiscal year 2009-2010 and  
16 the same sum or so much thereof as may be necessary for fiscal  
17 year 2010-2011 for the operation and administration of the  
18 renewable energy facility siting process.

19 The sums appropriated shall be expended by the department  
20 of business, economic development, and tourism for the purposes  
21 of this Act.



1 SECTION 14. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 15. This Act shall take effect upon its approval;  
4 provided that section 13 shall take effect on July 1, 2009.

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INTRODUCED BY:

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**Report Title:**

Renewable Energy

**Description:**

Establishes comprehensive measures for increasing the production and use of renewable energy in the State.

