

S.B. NO. 2670

JAN 25 2010

A BILL FOR AN ACT

RELATING TO FOSSIL FUELS.

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

1 SECTION 1. The purpose of this Act is to restrict the
2 construction of new power plants for electrical power generation
3 that can only use fossil fuels.

4 SECTION 2. Section 269-91, Hawaii Revised Statutes, is
5 amended by adding a new definition to be appropriately inserted
6 and to be appropriately designated and to read as follows:

7 "New electric generation unit" means a unit without an air
8 permit seeking public utilities commission approval of a
9 certificate of public convenience and necessity pursuant to
10 section 269-7.5 after June 30, 2010 and does not include
11 retrofits of existing power generation units to improve their
12 efficiency."

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

15 "§269-92 Renewable portfolio standards. (a) Each
16 electric utility company that sells electricity for consumption
17 in the State shall establish a renewable portfolio standard of:

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- 1 (1) Ten per cent of its net electricity sales by
2 December 31, 2010;
- 3 (2) Fifteen per cent of its net electricity sales by
4 December 31, 2015;
- 5 (3) Twenty-five per cent of its net electricity sales by
6 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 energy resources; provided that:

- 13 (1) Prior to January 1, 2015, at least fifty per cent of
14 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 toward renewable energy portfolio
21 standards;

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

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

11 (5) The public utilities commission shall not approve
12 applications to build additional new electric
13 generation units with a rated capacity greater than
14 two megawatts unless the units are capable of using
15 non-fossil fuels; provided that an application may be
16 approved if the applicant is an electric utility
17 company and the applicant demonstrates compliance, and
18 the ability to maintain compliance, with this section;
19 and provided further that the annual actual heat input
20 to the new electric generation units from biomass
21 fuels exceeds the annual heat input from fossil
22 fuels."

1 (c) If the public utilities commission determines that an
2 electric utility company failed to meet the renewable portfolio
3 standard, after a hearing in accordance with chapter 91, the
4 utility shall be subject to penalties to be established by the
5 public utilities commission; provided that if the commission
6 determines that the electric utility company is unable to meet
7 the renewable portfolio standards due to reasons beyond the
8 reasonable control of an electric utility, as set forth in
9 subsection (d), the commission, in its discretion, may waive in
10 whole or in part any otherwise applicable penalties.

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

- 15 (1) Weather-related damage;
- 16 (2) Natural disasters;
- 17 (3) Mechanical or resource failure;
- 18 (4) Failure of renewable electrical energy producers to
19 meet contractual obligations to the electric utility
20 company;
- 21 (5) Labor strikes or lockouts;

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- 1 (6) Actions of governmental authorities that adversely
- 2 affect the generation, transmission, or distribution
- 3 of renewable electrical energy under contract to an
- 4 electric utility company;
- 5 (7) Inability to acquire sufficient renewable electrical
- 6 energy due to lapsing of tax credits related to
- 7 renewable energy development;
- 8 (8) Inability to obtain permits or land use approvals for
- 9 renewable electrical energy projects;
- 10 (9) Inability to acquire sufficient cost-effective
- 11 renewable electrical energy;
- 12 (10) Substantial limitations, restrictions, or prohibitions
- 13 on utility renewable electrical energy projects; and
- 14 (11) Other events and circumstances of a similar nature.

15 (e) No electric utility company shall enter into an
16 agreement for the purchase of electricity from fossil-based
17 electric generation units built after December 31, 2010, unless
18 the electric utility company demonstrates compliance with and
19 the ability to maintain compliance with this section, and unless
20 the electric generation units' annual actual heat input from
21 biomass fuels exceeds the annual actual heat input from fossil
22 fuels."

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1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 2010.

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INTRODUCED BY:

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BY REQUEST

Report Title:

Fossil Fuels; Electricity Generation

Description:

Prohibits the Public Utilities Commission from issuing a certificate of public convenience and necessity for new electrical generation facilities that can only use fossil fuels as their energy source.

JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO FOSSIL FUELS.

PURPOSE: To prohibit the Public Utilities Commission from approving a new electrical power plant of two megawatts or larger that can only use fossil fuels, such as petroleum and coal.

MEANS: Amend sections 269-91 and 269-92, Hawaii Revised Statutes.

JUSTIFICATION: Continued reliance on fossil fuels for electrical power generation raises environmental and economic concerns and deviates from Hawaii's statutorily established goal of 70 percent of energy from clean, renewable sources by 2030, as stated in the Hawaii Clear Energy Initiative (HCEI) and sections 269-92 and 269-95, Hawaii Revised Statutes.

This proposal makes it clear that the State Public Utilities Commission will not approve electrical power generation facilities of two megawatts or greater that rely solely on fossil fuels as their source of energy. Making this a clear State policy will ensure that investors, operators, and those seeking to establish new utility facilities in Hawaii will need to abide by the HCEI.

Impact on the public: The transformation to a clean energy economy will reduce the negative impacts of oil price volatility on Hawaii, will reduce the importation of foreign oil into the State, and will encourage the development of local renewable fuel sources for electrical power generation.

Impact on the department and other agencies: This bill will provide statutory guidance to the members of the Public Utilities

Commission on what types of electrical utility facilities can be approved for operation in the State.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: BUF-901, BED-120.

OTHER AFFECTED
AGENCIES: Department of Business, Economic
Development, and Tourism.

EFFECTIVE DATE: July 1, 2010.