
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. The purpose of this Act is to limit curtailment
2 by an electric utility company when exercising a power purchase
3 agreement with a producer of renewable energy. This requirement
4 will create a more efficient and predictable renewable energy
5 regime.

6 SECTION 2. Section 269-27.1, Hawaii Revised Statutes, is
7 amended to read as follows:

8 " ~~§269-27.1~~ **Establishment of geothermal energy**
9 **rates**; **curtailment or interruption limit.** (a) The rate
10 payable by a public utility to the producer of geothermal steam
11 or electricity generated from geothermal steam shall be
12 established by agreement between the public utility and the
13 supplier, subject to approval by the public utilities
14 commission; provided that if the public utility and the supplier
15 fail to reach an agreement for such rate, or if the agreed upon
16 rate is disapproved by the commission, the public utilities
17 commission shall establish a just and reasonable rate for the



1 geothermal steam or electricity generated from geothermal steam
2 supplied to the public utility by the producer.

3 (b) The producer of geothermal steam or electricity
4 generated from geothermal steam shall be excluded from coverage
5 of the term "public utility" as defined in section 269-1.

6 (c) Any agreement for the purchase of electricity
7 generated from geothermal steam by an electric utility company
8 from a producer of geothermal electricity shall contain
9 provisions that state that the electric utility company shall
10 not be entitled to curtail or interrupt a producer of geothermal
11 electricity for more than a maximum number of hours per calendar
12 year, as agreed upon by the producer and the electric utility
13 company. In the event the electric utility company curtails or
14 interrupts the producer's geothermal electricity in excess of
15 the agreed upon maximum number of hours per calendar year, the
16 producer shall be entitled to receive payment for a
17 contractually prescribed percentage of the design capacity of
18 the producer's production facility, multiplied by the number of
19 hours of curtailment or interruption from a prescribed time
20 period each day in excess of the agreed upon maximum number of
21 hours per calendar year, multiplied by the applicable energy
22 payment rate; provided that a producer shall not be entitled to



1 payment for curtailment or interruption due to an emergency that
2 imminently threatens the electrical grid or results from a
3 natural or manmade disaster."

4 SECTION 3. Section 269-27.2, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§269-27.2 Utilization of electricity generated from
7 nonfossil fuels. (a) The public utilities commission shall
8 investigate and determine the extent to which electricity
9 generated from nonfossil fuel sources is available to public
10 utilities that supply electricity to the public, which
11 electricity is in excess of that utilized or otherwise needed by
12 the producers for their internal uses and which the producers
13 are willing to make available to the electric public utilities.

14 (b) The public utilities commission may direct public
15 utilities that supply electricity to the public to arrange for
16 the acquisition of and to acquire electricity generated from
17 nonfossil fuel sources as is available from and the producers
18 are willing and able to make available to the public utilities,
19 and to employ and dispatch the nonfossil fuel generated
20 electricity in a manner consistent with the availability thereof
21 to maximize the reduction in consumption of fossil fuels in the
22 generation of electricity to be provided to the public. To



1 assist the energy resources coordinator in effectuating the
2 purposes of chapter 201N, the public utilities commission may
3 develop reasonable guidelines and timetables for the creation
4 and implementation of power purchase agreements.

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

13 The commission's determination of the just and reasonable
14 rate shall be accomplished by establishing a methodology that
15 removes or significantly reduces any linkage between the price
16 of fossil fuels and the rate for the nonfossil fuel generated
17 electricity to potentially enable utility customers to share in
18 the benefits of fuel cost savings resulting from the use of
19 nonfossil fuel generated electricity. As the commission deems
20 appropriate, the just and reasonable rate for nonfossil fuel
21 generated electricity supplied to the public utility by the
22 producer may include mechanisms for reasonable and appropriate



1 incremental adjustments, such as adjustments linked to consumer
2 price indices for inflation or other acceptable adjustment
3 mechanisms.

4 (d) Upon application of a public utility that supplies
5 electricity to the public, and notification of its customers,
6 the commission, after an evidentiary hearing, may allow payments
7 made by the public utility to nonfossil fuel producers for firm
8 capacity and related revenue taxes to be recovered by the public
9 utility through an interim increase in rates until the effective
10 date of the rate change approved by the commission's final
11 decision in the public utility's next general rate proceeding
12 under section 269-16, notwithstanding any requirements to the
13 contrary of any other provision in this chapter or in the
14 commission's rules or practices; provided the amount recovered
15 by the utility and the amount of increase in rates due to the
16 payments for firm capacity and related revenue taxes to be
17 charged to the consumers of the electricity are found by the
18 commission to be:

- 19 (1) Just and reasonable;
- 20 (2) Not unduly prejudicial to the customers of the public
21 utility;



- 1 (3) Promotional of Hawaii's long-term objective of energy
- 2 self-sufficiency;
- 3 (4) Encouraging to the maintenance or development of
- 4 nonfossil fueled sources of electrical energy; and
- 5 (5) In the overall best interest of the general public.

6 The evidentiary hearing provided for in this subsection shall be
7 conducted expeditiously and shall be limited to evidence related
8 to the above findings. Notwithstanding section 269-16, no
9 public hearing shall be required, except as the commission in
10 its discretion may require.

11 (e) Any agreement for the purchase of electricity
12 generated from nonfossil fuel sources by an electric utility
13 company from a producer of electricity from nonfossil fuel
14 sources shall contain provisions that state that the electric
15 utility company shall not be entitled to curtail or interrupt a
16 producer of electricity from nonfossil fuel sources for more
17 than a maximum number of hours per calendar year, as agreed upon
18 by the producer and the electric utility company. In the event
19 the electric utility company curtails or interrupts the
20 producer's nonfossil fuel source electricity in excess of the
21 agreed upon maximum number of hours per calendar year, the
22 producer shall be entitled to receive payment for a



1 contractually prescribed percentage of the design capacity of
2 the producer's production facility, multiplied by the number of
3 hours of curtailment or interruption from a prescribed time
4 period each day in excess of the agreed upon maximum number of
5 hours per calendar year, multiplied by the applicable energy
6 payment rate; provided that a producer shall not be entitled to
7 payment for curtailment or interruption due to an emergency that
8 imminently threatens the electrical grid or results from a
9 natural or manmade disaster."

10 SECTION 4. This Act shall not apply to any agreement
11 entered into before the effective date of this Act.

12 SECTION 5. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: 

JAN 23 2013



H.B. NO. 1142

Report Title:

Renewable Energy; Curtailment; Power Purchase Agreement

Description:

Requires an electric utility company and a producer of renewable energy who enter into a power purchase agreement to contract for a maximum number of hours per calendar year that produced renewable energy can be curtailed by the utility company.

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