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# A BILL FOR AN ACT

RELATING TO ENERGY.

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

1           SECTION 1. The legislature finds that Hawaii's energy  
2 sector is undergoing a transition to renewable energy that is  
3 strengthening the State's economy, environment, and security.  
4 To complete this transition successfully, and to ensure maximum  
5 benefits for Hawaii's people and businesses, it is important  
6 that all relevant entities are aligned in the goal of achieving  
7 one hundred per cent renewable energy.

8           This Act requires all gas sales related to gas utility  
9 operations to become more renewable over time, including sales  
10 by regulated gas utilities (e.g., sales via gas pipelines), and  
11 all affiliates or subsidiaries of gas utilities (e.g., sales via  
12 large gas tanks). An aggregated approach has a two-fold  
13 benefit:

14           (1) It will enable flexibility in achieving renewable  
15 standards, as the renewable content of regulated and  
16 unregulated gas deliveries can be aggregated; and



1           (2) It will ensure that the objectives of this Act cannot  
2           be circumvented through the use of unregulated  
3           affiliates or subsidiary entities.

4           The purpose of this Act is to promote fairness and  
5 alignment in Hawaii's transition to one hundred per cent  
6 renewable energy and ensure that the State's market for gas  
7 embraces and supports the State's transition toward increasing  
8 renewable energy.

9           SECTION 2. Chapter 269, Hawaii Revised Statutes, is  
10 amended by adding three new sections to part V to be  
11 appropriately designated and to read as follows:

12           "§269-A Gas renewable portfolio standards. (a) Each gas  
13 utility company that sells gas for consumption in the State  
14 shall establish a renewable energy portfolio standard of:

- 15           (1) Twenty-five per cent of its total sales by  
16           December 31, 2025;  
17           (2) Forty per cent of its total sales by December 31,  
18           2030;  
19           (3) Seventy per cent of its total sales by December 31,  
20           2040; and



1        (4) One hundred per cent of its total sales by  
2                December 31, 2045.

3        For the purpose of this section, "total sales" shall mean  
4 the sale of all gas in the State by a gas utility, by its  
5 corporate parent, and by its corporate parent's subsidiary  
6 entities, partners, joint venturers, and affiliate entities.

7        (b) The public utilities commission may establish  
8 standards for each gas utility that prescribe the portion of the  
9 renewable portfolio standards that shall be met by specific  
10 types of renewable energy resources; provided that where gas is  
11 composed of co-mingled fossil and renewable fuels, the renewable  
12 energy component of the gas shall be considered to be in direct  
13 proportion to the percentage of the total heat output value  
14 represented by the heat output value of the fuels derived from  
15 renewable energy.

16        (c) If the public utilities commission determines that a  
17 gas utility company fails to meet the renewable portfolio  
18 standard, after a hearing in accordance with chapter 91, the  
19 utility shall be subject to penalties to be established by the  
20 public utilities commission; provided that if the commission  
21 determines that the gas utility company is unable to meet the



1 renewable portfolio standards due to events or circumstances  
2 beyond the reasonable control of a gas utility, as set forth in  
3 subsection (d), the commission, in its discretion, may waive in  
4 whole or in part any otherwise applicable penalties.

5 (d) An event or circumstance beyond the reasonable control  
6 of a gas utility company may include, to the extent that the  
7 event or circumstance could not be reasonably foreseen and  
8 ameliorated:

9 (1) Weather-related damage;

10 (2) Natural disaster;

11 (3) Mechanical or resource failure;

12 (4) Failure of a renewable gas producer or supplier to  
13 meet contractual obligations to the gas utility  
14 company;

15 (5) A labor strike or lockout;

16 (6) An action of a governmental authority that adversely  
17 affect the procurement of renewable gas energy under  
18 contract to a gas utility company;

19 (7) Inability to obtain a permit or land use approval for  
20 a renewable gas project;



- 1       (8) Inability to acquire sufficient renewable gas to meet  
2       the renewable portfolio standard goals for 2040 and  
3       after in a manner that is cost-effective or beneficial  
4       to Hawaii's economy in relation to comparable fossil  
5       fuel resources;
- 6       (9) A substantial limitation, restriction, or prohibition  
7       on a utility renewable gas project; or
- 8       (10) Any other event or circumstance of a similar nature  
9       that could not be reasonably foreseen and ameliorated.

10       §269-B Achieving gas portfolio standard; aggregation. (a)

11 A gas utility company and its affiliates may aggregate their  
12 renewable portfolios to achieve the renewable portfolio  
13 standard.

14       (b) If a gas utility company and its affiliates aggregate  
15 their renewable portfolios to achieve the renewable portfolio  
16 standard, the public utilities commission may distribute,  
17 apportion, or allocate the costs and expenses of all or any  
18 portion of the respective renewable portfolios among the gas  
19 utility company, its gas utility affiliates, and their  
20 respective ratepayers, as is reasonable under the circumstances.



1        (c) A gas company may recover, through an automatic rate  
2 adjustment clause, the gas company's revenue requirement  
3 resulting from the distribution, apportionment, or allocation of  
4 the costs and expenses of the renewable portfolios of the gas  
5 utility company and its gas utility affiliates.

6        (d) To provide for timely recovery of the revenue  
7 requirement under subsection (c), the commission may establish a  
8 separate automatic rate adjustment clause or approve the use of  
9 a previously approved automatic rate adjustment clause without a  
10 rate case filing. The use of the automatic rate adjustment  
11 clause to recover the revenue requirement may continue until the  
12 revenue requirement is incorporated in rates in the respective  
13 gas utility company's rate case.

14        **§269-C Waivers, extensions, and incentives.** Any gas  
15 utility company not meeting the renewable portfolio standard  
16 shall report to the public utilities commission within ninety  
17 days following the goal dates established in section 269-A and  
18 provide an explanation for not meeting the renewable portfolio  
19 standard. The public utilities commission, after allowing an  
20 appropriate period of public comment, may either grant or deny a  
21 waiver from the renewable portfolio standard or an extension for



1 meeting the prescribed standard. The public utilities  
2 commission may provide incentives to encourage gas utility  
3 companies to exceed their renewable portfolio standards or to  
4 meet their renewable portfolio standards ahead of schedule, or  
5 both."

6 SECTION 3. Section 269-91, Hawaii Revised Statutes, is  
7 amended as follows:

8 1. By adding a new definition to be appropriately inserted  
9 and to read:

10 "Gas utility company" means a public utility, as defined  
11 under section 269-1, for the production, conveyance,  
12 transmission, delivery, or furnishing of gas or oil, or of  
13 light, power, heat, or cold produced from gas or oil."

14 2. By amending the definitions of "cost-effective" and  
15 "renewable portfolio standard" to read:

16 "Cost-effective" means the ability to produce or purchase  
17 [electric] energy [~~or firm capacity, or both,~~] from renewable  
18 energy resources at or below avoided costs or as the commission  
19 otherwise determines to be just and reasonable consistent with  
20 the methodology set by the public utilities commission in  
21 accordance with section 269-27.2.



1           "Renewable portfolio standard" means, in the context of an  
2 electric utility, the percentage of electrical energy sales that  
3 is represented by renewable electrical energy. "Renewable  
4 portfolio standard" means, in the context of a gas utility  
5 company, the percentage of gas sales that is represented by  
6 fuels derived from renewable energy."

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

9           "**§269-95 Renewable portfolio standards study.** The public  
10 utilities commission shall:

11           (1) [~~By December 31, 2007, develop~~] Develop and implement  
12 a utility ratemaking structure, which may include  
13 performance-based ratemaking, to provide incentives  
14 that encourage Hawaii's [~~electric~~] utility companies  
15 to use cost-effective renewable energy resources found  
16 in Hawaii to meet the renewable portfolio standards  
17 established in [~~section 269-92,~~] this chapter, while  
18 allowing for deviation from the standards [~~in the~~  
19 ~~event that~~] if the standards cannot be met in a cost-  
20 effective manner or as a result of events or  
21 circumstances, such as described in section





1           269-92(d) [7] or section 269-A(d), beyond the control  
2           of the [~~electric~~] utility company that could not have  
3           been reasonably anticipated or ameliorated;

- 4       (2) Gather, review, and analyze empirical data to:
- 5           (A) Determine the extent to which any proposed
  - 6                 utility ratemaking structure would impact
  - 7                 [~~electric~~] utility companies' profit margins; and
  - 8           (B) Ensure that the [~~electric~~] utility companies'
  - 9                 opportunity to earn a fair rate of return is not
  - 10                diminished;

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



- 1           (A) The capability of Hawaii's [electric] utility  
2           companies to achieve renewable portfolio  
3           standards in a cost-effective manner and shall  
4           assess factors such as:
- 5           (i) The impact on consumer rates;
  - 6           (ii) Utility system reliability and stability;
  - 7           (iii) Costs and availability of appropriate  
8           renewable energy resources and technologies,  
9           including the impact of renewable portfolio  
10          standards, if any, on the energy prices  
11          offered by renewable energy suppliers or  
12          developers;
  - 13          (iv) Permitting approvals;
  - 14          (v) Effects on the economy;
  - 15          (vi) Balance of trade, culture, community,  
16          environment, land, and water;
  - 17          (vii) Climate change policies;
  - 18          (viii) Demographics;
  - 19          (ix) Cost of fossil fuel volatility; and
  - 20          (x) Other factors deemed appropriate by the  
21          commission; and



1 (B) Projected renewable portfolio standards to be set  
2 five and ten years beyond the then current  
3 standards;

4 (4) Evaluate the renewable portfolio standards every five  
5 years, beginning in 2013, and may revise the standards  
6 based on the best information available at the time to  
7 determine if the standards established by section  
8 269-92 remain effective and achievable; and

9 (5) Report its findings and revisions to the renewable  
10 portfolio standards, based on its own studies and  
11 other information, to the legislature no later than  
12 twenty days before the convening of the regular  
13 session of 2014, and every five years thereafter."

14 SECTION 5. In codifying the new sections added by section  
15 2 of this Act, the revisor of statutes shall substitute  
16 appropriate section numbers for the letters used in designating  
17 the new sections in this Act.

18 SECTION 6. If any provision of this Act, or the  
19 application thereof to any person or circumstance, is held  
20 invalid, the invalidity does not affect other provisions or  
21 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

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

5 SECTION 8. This Act shall take effect upon its approval.

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INTRODUCED BY:

*ocuse on 6/2*

JAN 22 2020



# H.B. NO. 2401

**Report Title:**

Energy; Renewable Portfolio Standards; Gas

**Description:**

Establishes renewable energy portfolio standards for gas utility companies.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

