

JAN 18 2023

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. The legislature finds that Act 97, Session Laws
2 of Hawaii 2015, established a renewable portfolio standards
3 target of one hundred per cent renewable electric energy by
4 2045. Act 15, Session Laws of Hawaii 2018, also established a
5 statewide zero emissions clean economy target to sequester more
6 atmospheric carbon and greenhouse gases than emitted within the
7 State as quickly as practicable, but no later than 2045.

8 To move the State closer to its carbon negative target as
9 soon as possible, which is needed to mitigate the damaging
10 effects of projected sea level rise due to greenhouse gas
11 emissions, the legislature finds that continual progress and the
12 timely approval, commencement of construction, and completion of
13 renewable energy projects is of paramount importance.

14 Renewable energy project developers currently must obtain
15 public utilities commission approval of the project and the
16 power purchase agreement before obtaining financing or expending
17 significant moneys to begin construction of their respective



1 projects. Accordingly, delays in receiving approvals from the
2 public utilities commission typically results in delays to
3 obtaining financing and the commencement of construction of the
4 renewable energy project. The legislature further finds that
5 renewable energy projects take multiple years to develop. A
6 procedural framework is therefore necessary to ensure timely
7 progression of these important projects.

8 The Hawaii natural energy institute informed the public
9 utilities commission in December 2020, that the timely
10 completion of renewable energy projects is critical to mitigate
11 grid reliability issues. The legislature consequently finds
12 that defining the timing of the public utilities commission's
13 review process for renewable projects, power purchase
14 agreements, and cost recovery applications, will not only help
15 bring utility-scale renewable energy projects online sooner, it
16 will also:

- 17 (1) Decrease electricity rates for consumers by providing
18 project developers with added certainty regarding
19 timing, which helps to lower bid pricing;
- 20 (2) Help achieve the State's renewable portfolio standards
21 goals in a timely manner; and



1 (3) Help reduce greenhouse gas emissions earlier in order
2 to mitigate climate change.

3 State departments need to implement more efficient ways to
4 streamline government processing and the review of proposed
5 renewable energy projects. Previously, the legislature has
6 established time limits for state and county agencies by which
7 they must issue decisions in certain types of matters.
8 Specifically, section 269-16(d), Hawaii Revised Statutes,
9 requires the public utilities commission to make every effort to
10 complete its deliberations concerning ratemaking proceedings and
11 issue its decision as expeditiously as possible within nine
12 months from the date a public utility filed a certain
13 application. However, due to the need to more timely facilitate
14 the approval of renewable energy matters, the legislature finds
15 that a six-month deadline is more appropriate. Therefore, the
16 purpose of this Act is to:

17 (1) Require the public utilities commission to render
18 decisions on certain renewable projects, power
19 purchase agreements, and cost recovery applications
20 within one hundred and eighty days of the filing of
21 the application;



1 (2) Exempt certain power purchase agreement amendments
2 from the public utilities commission's review and
3 approval process; and

4 (3) For ratemaking proceedings, require the public
5 utilities commission to complete its deliberations and
6 issue its decision before six months from the date a
7 public utility has filed its application for approval.

8 SECTION 2. Chapter 269, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§269- Public utilities commission decision-making for
12 renewable energy matters. (a) Beginning July 1, 2023, the
13 public utilities commission shall approve, approve with
14 modifications, or deny matters for proposed:

15 (1) Renewable projects developed by a public utility;

16 (2) Renewable energy power purchase agreement
17 applications;

18 (3) Projects to connect renewable facilities to the
19 electric grid; and

20 (4) Cost recovery applications for required substation and
21 infrastructure upgrades,



1 filed with the commission within one hundred and eighty days of
2 the filing. In carrying out this mandate, the commission shall
3 set and enforce a procedural schedule that allows the commission
4 to meet the one-hundred-and-eighty-day period. If the
5 application is not approved, approved with modification, or
6 denied by the commission within one hundred and eighty days, the
7 matter shall be deemed approved by the commission. If a
8 decision is not made within the one-hundred-and-eighty-day
9 period, the commission shall report the reasons therefor to the
10 legislature and the governor in writing within thirty days after
11 the expiration of the one hundred and eighty day period.

12 (b) For any power purchase agreement previously approved
13 by the public utilities commission, any subsequent amendments
14 thereto shall not require approval of the public utilities
15 commission; provided that the amended power purchase agreement
16 reduces the unit price of the energy or energy potential from
17 the previously approved power purchase agreement.

18 (c) This section shall only apply to utility-scale
19 renewable energy projects that are five megawatts in total
20 output capacity or larger.



1 (d) This section shall not apply to a member-owned
2 cooperative electric utility."

3 SECTION 3. Section 269-16, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) The commission shall make every effort to complete
6 its deliberations and issue its decision as expeditiously as
7 possible and before [~~nine~~] six months from the date the public
8 utility filed its completed application; provided that in
9 carrying out this mandate, the commission shall require all
10 parties to a proceeding to comply strictly with procedural time
11 schedules that it establishes. If a decision is rendered after
12 the [~~nine-month~~] six-month period, the commission shall report
13 in writing, on paper or electronically, the reasons therefor to
14 the legislature within thirty days after rendering the decision.

15 Notwithstanding subsection (c), if the commission has not
16 issued its final decision on a public utility's rate application
17 within the [~~nine-month~~] six-month period stated in this section,
18 the commission, within one month after the expiration of the
19 [~~nine-month~~] six-month period, shall render an interim decision
20 allowing the increase in rates, fares and charges, if any, to
21 which the commission, based on the evidentiary record before it,



1 believes the public utility is probably entitled. The
2 commission may postpone its interim rate decision for thirty
3 days if the commission considers the evidentiary hearings
4 incomplete. In the event interim rates are made effective, the
5 commission shall require by order the public utility to return,
6 in the form of an adjustment to rates, fares, or charges to be
7 billed in the future, any amounts with interest, at a rate equal
8 to the rate of return on the public utility's rate base found to
9 be reasonable by the commission, received under the interim
10 rates that are in excess of the rates, fares, or charges finally
11 determined to be just and reasonable by the commission.
12 Interest on any excess shall commence as of the date that any
13 rate, fare, or charge goes into effect that results in the
14 excess and shall continue to accrue on the balance of the excess
15 until returned.

16 The [~~nine-month~~] six-month period in this subsection shall
17 begin only after a completed application has been filed with the
18 commission and a paper or an electronic copy served on the
19 consumer advocate. The commission shall establish standards
20 concerning the data required to be set forth in the application
21 in order for it to be deemed a completed application. The



1 consumer advocate may, within twenty-one days after receipt,
2 object to the sufficiency of any application, and the commission
3 shall hear and determine any objection within twenty-one days
4 after it is filed. If the commission finds that the objections
5 are without merit, the application shall be deemed to have been
6 completed upon original filing. If the commission finds the
7 application to be incomplete, it shall require the applicant to
8 submit an amended application consistent with its findings, and
9 the [~~nine-month~~] six-month period shall not commence until the
10 amended application is filed."

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on June 30, 2023.

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INTRODUCED BY *Kenneth R. Sawyer*



S.B. NO. 72

Report Title:

Renewable Energy; Public Utilities Commission; Electric Public Utilities

Description:

Requires the Public Utilities Commission to render decisions on certain renewable projects, power purchase agreements, and cost recovery applications within one hundred and eighty days of the filing of the application. Exempts certain power purchase agreement amendments from the Public Utilities Commission review and approval process. For ratemaking proceedings, requires the Public Utilities Commission to complete its deliberations and issue its decision before six months from the date a public utility has filed its application for approval.

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