HOUSE OF REPRESENTATIVES
TWENTY-EIGHTH LEGISLATURE, 2015
STATE OF HAWAII

H.B. NO. 623 H.D. 1

A BILL FOR AN ACT

RELATING TO RENEWABLE STANDARDS.

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

SECTION 1. The legislature finds that Hawaii's dependency on imported fuel drains our economy of billions of dollars each year. A stronger local economy depends on a transition away from imported fuels and toward renewable local resources that provide a secure source of affordable energy.

The legislature further finds that alternative energy technologies have advanced significantly in recent years, leading to an explosion of new markets, jobs, and local energy sources. Due to these and other advances, Hawaii is currently ahead of its timeline in reaching its goal of becoming forty per cent renewable by 2030.

The legislature also finds that Hawaii is in a period of energy transition, with many long-term agreements soon to be executed for new forms of imported fuels that may act as temporary "bridge" fuels until local sources of renewable energy can be developed.

The purpose of this Act is to update and extend Hawaii's clean energy initiative and renewable portfolio standards to ensure maximum long-term benefit to Hawaii's economy by setting a

goal of one hundred per cent renewable by 2045; provided that extending the renewable portfolio standard goals and transition to energy independence beyond 2030 shall be undertaken in a manner that benefits Hawaii's economy and all electric customers, maintains customer affordability, and does not induce renewable energy developers to artificially increase the price of renewable energy in Hawaii. This target will ensure that Hawaii moves beyond its dependence on imported fuels and continues to grow a local renewable energy industry. In addition, this Act ensures that electricity from on-site generation not purchased from an electric utility company, both on-grid and off-grid, is subject to the same renewable standards as electricity generated by an electric utility company.

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

""Large self-generator" means any person or entity that owns or operates on-grid or off-grid electricity-generating equipment with a generating capacity of 500 kilowatts or more, except for equipment owned or operated by an electric utility company or an independent power producer for the purpose of generating electricity for sale to an electric utility company."

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

"**§269-92 Renewable portfolio standards[~~.~~] for electric utility companies; renewable standards for large self-generators.** (a) Each electric utility company that sells electricity for consumption in the State shall establish a renewable portfolio standard of:

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

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

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

(4) Forty per cent of its net electricity sales by December 31, 2030[~~.~~];

(5) Seventy per cent of its net electricity sales by December 31, 2035; and

(6) One hundred per cent of its net electricity sales by December 31, 2045.

(b) Each large self-generator shall ensure that, on an annual basis, its on-site generation consists of:

(1) Twenty-five per cent renewable energy by December 31, 2020;

(2) Forty per cent renewable energy by December 31, 2030;

(3) Seventy per cent renewable energy by December 31, 2035; and

(4) One hundred per cent renewable energy by December 31, 2045;

provided that this requirement shall not apply to any electricity-generating equipment in service before July 1, 2015, of a large self-generator.

If electricity is generated by a combination of renewable and nonrenewable means, the proportion attributable to the renewable means shall be credited as renewable energy. If fossil and renewable fuels are co-fired in the same generating unit, the unit shall be considered to generate renewable electricity in direct proportion to the percentage of the total heat input value represented by the heat input value of the renewable fuels.

[~~(b)~~] (c) The public utilities commission may establish standards for each utility that prescribe what portion of the

renewable portfolio standards shall be met by specific types of renewable energy resources; provided that:

(1) Prior to January 1, 2015, at least fifty per cent of the renewable portfolio standards shall be met by electrical energy generated using renewable energy as the source, and after December 31, 2014, the entire renewable portfolio standard shall be met by electrical generation from renewable energy sources;

(2) Beginning January 1, 2015, electrical energy savings shall not count toward renewable energy portfolio standards;

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

(4) Where fossil and renewable fuels are co-fired in the same generating unit, the unit shall be considered to generate renewable electrical energy (electricity) in direct proportion to the percentage of the total heat input value represented by the heat input value of the renewable fuels.

[~~(c)~~] (d) If the public utilities commission determines that an electric utility company or large self-generator failed to meet the applicable renewable [~~portfolio~~] standard, after a hearing in accordance with chapter 91, the electric utility company or large self-generator shall be subject to penalties to be established by the public utilities commission; provided that if the commission determines that the electric utility company or large self-generator is unable to meet the applicable renewable [~~portfolio~~] standards due to reasons beyond the reasonable control of an electric utility[~~,~~] company or large self-generator, as set forth in subsection [~~(d),~~] (e), the commission, in its discretion, may waive in whole or in part any otherwise applicable penalties.

[~~(d)~~] (e) Events or circumstances that are outside of an electric utility company's or large self-generator's reasonable control may include, to the extent the event or circumstance could not be reasonably foreseen and ameliorated:

(1) Weather-related damage;

(2) Natural disasters;

(3) Mechanical or resource failure;

(4) Failure of renewable electrical energy producers to meet contractual obligations to the electric utility company[~~,~~] or large self-generator;

(5) Labor strikes or lockouts;

(6) Actions of governmental authorities that adversely affect the generation, transmission, or distribution of renewable electrical energy under contract to an electric utility company;

(7) [~~Inability~~] For an electric utility company only, inability to acquire sufficient renewable electrical energy due to lapsing of tax credits related to renewable energy development;

(8) [~~Inability~~] For an electric utility company only, inability to obtain permits or land use approvals for renewable electrical energy projects;

(9) [~~Inability~~] For an electric utility company only, inability to acquire sufficient cost-effective renewable electrical energy;

(10) For an electric utility company only, inability to acquire sufficient renewable electrical energy to meet the 2035 and 2045 renewable portfolio standard goals

in a manner that is beneficial to Hawaii's economy in relation to comparable fossil fuel resources;

[~~(10) Substantial~~] (11) For an electric utility company only, substantial limitations, restrictions, or prohibitions on utility renewable electrical energy projects; and

[~~(11)~~] (12) Other events and circumstances of a similar nature."

SECTION 4. Section 269-94, Hawaii Revised Statutes, is amended to read as follows:

"[~~,~~] **§269-94 Waivers, extensions, and incentives.** [~~,~~] (a) Any electric utility company not meeting the renewable portfolio standard shall report to the public utilities commission within ninety days following the goal dates established in section [~~,~~] 269-92 [~~,~~], and provide an explanation for not meeting the renewable portfolio standard. The public utilities commission shall have the option to either grant a waiver from the renewable portfolio standard or an extension for meeting the prescribed standard.

The public utilities commission may provide incentives to encourage electric utility companies to exceed their renewable

portfolio standards or to meet their renewable portfolio standards ahead of time, or both.

(b) Any large self-generator that fails to meet the applicable renewable standard over the course of a calendar year shall report to the public utilities commission by March 31 of the following year and provide an explanation for its failure to meet the applicable renewable standard. The public utilities commission may grant an extension for meeting the prescribed standard. Any large self-generator that does not report its failure to meet the applicable renewable standard shall be subject to penalties established by the public utilities commission of no less than $1,000 per day of noncompliance with this reporting requirement."

SECTION 5. Section 269-95, Hawaii Revised Statutes, is amended to read as follows:

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

(1) By December 31, 2007, develop and implement a utility ratemaking structure, which may include performance-based ratemaking, to provide incentives that encourage Hawaii's electric utility companies to use cost-

effective renewable energy resources found in Hawaii to meet the renewable portfolio standards established in section 269-92, while allowing for deviation from the standards in the event that the standards cannot be met in a cost-effective manner or as a result of events or circumstances, such as described in section [~~269-92(d),~~] 269-92(e), beyond the control of the electric utility company that could not have been reasonably anticipated or ameliorated;

(2) Gather, review, and analyze empirical data to:

(A) Determine the extent to which any proposed utility ratemaking structure would impact electric utility companies' profit margins; and

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

(3) Use funds from the public utilities special fund to contract with the Hawaii natural energy institute of the University of Hawaii to conduct independent studies to be reviewed by a panel of experts from entities such as the United States Department of

Energy, National Renewable Energy Laboratory, Electric Power Research Institute, Hawaii electric utility companies, environmental groups, and other similar institutions with the required expertise. These studies shall include findings and recommendations regarding:

(A) The capability of Hawaii's electric utility companies to achieve renewable portfolio standards in a cost-effective manner and shall assess factors such as:

(i) The impact on consumer rates;

(ii) Utility system reliability and stability;

(iii) Costs and availability of appropriate renewable energy resources and technologies[~~;~~], including the impact of renewable portfolio standards, if any, on the energy prices offered by renewable energy developers;

(iv) Permitting approvals;

(v) Effects on the economy;

(vi) Balance of trade, culture, community, environment, land, and water;

(vii) Climate change policies;

(viii) Demographics; and

(ix) Other factors deemed appropriate by the commission; and

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

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

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

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2015.

H.B. NO. 623 H.D. 1

Report Title:
Renewable Portfolio Standards; Energy Independence; Large Self-Generator; Clean Energy Initiative

Description:
Increases renewable portfolio standards to 70 percent by December 31, 2035, and 100 percent by December 31, 2045. Establishes renewable standards, reporting requirements, and penalties for non-compliance for large self-generators. Clarifies exemptions. Adds the impact on renewable energy developer energy prices to PUC study and reporting requirements. (HB623 HD1)

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