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# 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, amended section 269-92, Hawaii Revised Statutes,  
3 to establish a one hundred per cent renewable portfolio standard  
4 by 2045, with the intent to transition the State away from  
5 imported fuels and toward renewable local resources that provide  
6 a secure source of affordable energy. However, the calculation  
7 of the renewable portfolio standard, based on the definition of  
8 renewable portfolio standard enacted in 2001 and amended in  
9 2006, is the percentage of electrical energy sales that is  
10 represented by renewable electrical energy. The legislature  
11 finds that the calculation of the renewable portfolio standard  
12 based on electrical energy sales (renewable electrical energy  
13 sales divided by total electricity sales), rather than on  
14 electrical energy generation (renewable electrical energy  
15 generation divided by total electrical energy generation),  
16 overestimates the amount of renewable energy serving Hawaii's  
17 electric utility customers.



1           There are two fundamental issues that lead to the current  
2 discrepancy: (1) the current renewable portfolio standard  
3 calculation inflates the reported percentage of renewable energy  
4 by excluding customer-sited, grid-connected energy generation in  
5 the denominator, which becomes material with higher levels of  
6 customer-sited, grid-connected renewable energy generation and  
7 higher renewable portfolio standard percentages; and (2) the  
8 current electrical energy sales number does not include energy  
9 losses that occur between the points of electrical energy  
10 generation and the customer meter where sales are measured.  
11 Failure to address these issues would create the incorrect  
12 public perception of the State's progress towards its one  
13 hundred per cent renewable energy statutory goal.

14           Furthermore, the legislature finds that Hawaii's energy  
15 sector is undergoing a transition to renewable energy that is  
16 strengthening the State's economy, environment, and security.  
17 To complete this transition successfully it is also important  
18 that all relevant entities are aligned. Along these lines, the  
19 legislature is concerned that requiring electric utilities, but  
20 not gas utilities, to increase their reliance on renewable  
21 energy creates an unfair playing field that may unintentionally



1 harm consumers by promoting suboptimal long-lived investments in  
2 fossil fuels through gas-fired distributed electrical  
3 generation. These effects may also have near- and long-term  
4 impacts on the viability of the State's electric utilities, and  
5 near- and long-term impacts on the viability of the State's gas  
6 utilities.

7 The legislature finds that the simplest, fairest, and most  
8 effective solution to this concern is to implement renewable  
9 portfolio standard targets for gas utilities that mirror those  
10 being achieved by electric utilities. This Act requires all gas  
11 sold for grid-connected electrical energy generation by  
12 regulated gas utility operations in the State to become more  
13 renewable over time.

14 The purpose of this Act is to: (1) amend the definition of  
15 renewable portfolio standard to more accurately reflect the  
16 percentage of renewable energy penetration in the State; and (2)  
17 establish gas utility company renewable portfolio standards for  
18 electricity generation, ensuring that the State's market for gas  
19 embraces and supports the transition away from fossil fuels and  
20 toward renewable energy.



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

4 "§269-A Renewable portfolio standards for gas utility  
5 companies. (a) The renewable portfolio standard for a gas  
6 utility company means total heat energy in therms from renewable  
7 gas sold divided by total heat energy in therms from gas sold,  
8 expressed as a percentage. For the purposes of this definition,  
9 the terms "renewable gas sold" and "gas sold" are limited to gas  
10 sold for grid-connected electrical energy generation under  
11 regulated gas utility company operations in the State.

12 (b) Each gas utility company that sells gas for grid-  
13 connected electrical energy generation by regulated utility  
14 operations in the State shall establish a renewable energy  
15 portfolio standard of one hundred per cent by December 31, 2045.

16 (c) The public utilities commission may establish  
17 standards for each gas utility company that prescribe what  
18 portion of the renewable portfolio standards shall be met by  
19 specific types of renewable gas resources; provided that where  
20 gas is composed of co-mingled fossil and renewable gases, the  
21 renewable gas component of the gas shall be considered to be in



1 direct proportion to the percentage of the total heat input  
2 value represented by the heat input value of the renewable gas.

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

13 (e) Events or circumstances that are outside a gas utility  
14 company's reasonable control may include, to the extent the  
15 event or circumstance could not be reasonably foreseen and  
16 ameliorated:

- 17 (1) Weather-related damage;
- 18 (2) Natural disasters;
- 19 (3) Mechanical or resource failure;



- 1        (4) Failure of renewable gas producers or suppliers to
- 2            meet contractual obligations to the gas utility
- 3            company;
- 4        (5) Labor strikes or lockouts;
- 5        (6) Actions of governmental authorities that adversely
- 6            affect the procurement of renewable gas under contract
- 7            to a gas utility company;
- 8        (7) Inability to acquire sufficient renewable gas because
- 9            of lapsing of tax credits related to renewable gas
- 10           development;
- 11        (8) Inability to obtain permits or land use approvals for
- 12           renewable gas projects;
- 13        (9) Inability to acquire sufficient cost-effective
- 14           renewable gas;
- 15        (10) Inability to acquire sufficient renewable gas to meet
- 16           the renewable portfolio standard goals by 2045 in a
- 17           manner that is beneficial to Hawaii's economy in
- 18           relation to comparable fossil fuel resources;
- 19        (11) Substantial limitations, restrictions, or prohibitions
- 20           on utility renewable gas projects; and



1        (12) Other events and circumstances of a similar nature  
2                    that are not reasonably foreseen and ameliorated.

3        (f) By July 1, 2019, each gas utility company shall submit  
4 to the public utilities commission, for review and approval, a  
5 procedure that establishes how the gas utility company will  
6 measure and report the gas utility's renewable portfolio  
7 standard status to the public utilities commission, and report  
8 the progress and the steps taken toward the renewable portfolio  
9 standard goals every five years thereafter.

10        **§269-B Achieving gas portfolio standard.**    (a) A gas  
11 utility company and its affiliates may aggregate their renewable  
12 portfolios to achieve the renewable portfolio standard.

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



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

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

16       §269-C Waivers, extensions, and incentives. Any gas  
17 utility company failing to meet the renewable portfolio standard  
18 shall report to the public utilities commission within ninety  
19 days following the goal date established in section 269-A, and  
20 provide an explanation for the failure to meet the renewable  
21 portfolio standard. The public utilities commission, after



1 allowing an appropriate period of public comment, shall grant or  
2 deny a request for a waiver from the renewable portfolio  
3 standard or for an extension to meet the prescribed standard.

4 The public utilities commission may provide incentives to  
5 encourage gas utility companies to exceed their renewable  
6 portfolio standards, or meet their renewable portfolio standards  
7 before the prescribed date, or both."

8 SECTION 3. Section 269-91, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 1. By adding five new definitions to be appropriately  
11 inserted and to read:

12 "Cost-effective" in the context of a gas utility company  
13 means the ability to produce or purchase gas from renewable gas  
14 resources at or below avoided costs or as the commission  
15 otherwise determines to be just and reasonable.

16 "Gas utility company" means a public utility, as defined  
17 under section 269-1, for the production, conveyance,  
18 transmission, delivery, or furnishing of gas.

19 "Grid-connected" means interconnected to the Hawaii  
20 electric system under an existing standard or rule approved by  
21 the public utilities commission. As used in this definition,



1 "interconnection" has the same meaning as described in section  
2 269-141.

3 "Hawaii electric system" has the same meaning as described  
4 in section 269-141.

5 "Renewable gas" means gas generated or produced using the  
6 following sources:

7 (1) Biogas, including landfill and sewage-based digester  
8 gas;

9 (2) Biomass, biomass crops, agricultural and animal  
10 residues and wastes, municipal solid waste, and other  
11 solid waste;

12 (3) Biofuels; and

13 (4) Hydrogen produced from renewable energy sources."

14 2. By amending the definition of "renewable portfolio  
15 standard" to read:

16 "Renewable portfolio standard" [means the percentage of  
17 electrical energy sales that is represented by renewable  
18 electrical energy.] has the same meaning as described in  
19 sections 269-92 and 269-A."

20 SECTION 4. Section 269-92, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§269-92 Renewable portfolio standards ~~[+]~~ for electric  
2 utility companies. (a) The renewable portfolio standard for an  
3 electric utility company means total renewable electrical energy  
4 generated from grid-connected renewable energy systems divided  
5 by total electrical energy generated from grid-connected energy  
6 systems, expressed as a percentage, but excluding electrical  
7 generation used exclusively for emergency service in the case of  
8 failure of the normal supply from the Hawaii electric system.

9           ~~[(a)]~~ (b) Each electric utility company that sells  
10 electricity for consumption in the State shall establish a  
11 renewable portfolio standard of:

- 12           (1) Ten per cent ~~[of its net electricity sales]~~ by  
13           December 31, 2010;
- 14           (2) Fifteen per cent ~~[of its net electricity sales]~~ by  
15           December 31, 2015;
- 16           (3) Thirty per cent ~~[of its net electricity sales]~~ by  
17           December 31, 2020;
- 18           (4) Forty per cent ~~[of its net electricity sales]~~ by  
19           December 31, 2030;
- 20           (5) Seventy per cent ~~[of its net electricity sales]~~ by  
21           December 31, 2040; and



1 (6) One hundred per cent [~~of its net electricity sales~~] by  
2 December 31, 2045.

3 (c) All electric grid-connected energy systems shall be  
4 one hundred per cent renewable energy systems by December 31,  
5 2045; provided that generation that is used exclusively for  
6 emergency service in the event of failure of the normal supply  
7 from the Hawaii electric system shall be excluded from such  
8 calculation as set forth in subsection (a).

9 [~~(b)~~] (d) The public utilities commission may establish  
10 standards for each electric utility company that prescribe  
11 [~~what~~] the portion of the renewable portfolio standards that  
12 shall be met by specific types of renewable energy resources;  
13 provided that:

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



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

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

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

14 [~~e~~] (e) If the public utilities commission determines  
15 that an electric utility company failed to meet the renewable  
16 portfolio standard, after a hearing in accordance with chapter  
17 91, the utility shall be subject to penalties to be established  
18 by the public utilities commission; provided that if the  
19 commission determines that the electric utility company is  
20 unable to meet the renewable portfolio standards [~~due to~~]  
21 because of reasons beyond the reasonable control of an electric



1 utility, as set forth in subsection [~~(d)~~] (f), the commission,  
2 in its discretion, may waive in whole or in part any otherwise  
3 applicable penalties.

4 [~~(d)~~] (f) Events or circumstances that are outside of an  
5 electric utility company's reasonable control may include, to  
6 the extent the event or circumstance could not be reasonably  
7 foreseen and ameliorated:

- 8 (1) Weather-related damage;
- 9 (2) Natural disasters;
- 10 (3) Mechanical or resource failure;
- 11 (4) Failure of renewable electrical energy producers to  
12 meet contractual obligations to the electric utility  
13 company;
- 14 (5) Labor strikes or lockouts;
- 15 (6) Actions of governmental authorities that adversely  
16 affect the generation, transmission, or distribution  
17 of renewable electrical energy under contract to an  
18 electric utility company;
- 19 (7) Inability to acquire sufficient renewable electrical  
20 energy due to lapsing of tax credits related to  
21 renewable energy development;



- 1 (8) Inability to obtain permits or land use approvals for
- 2 renewable electrical energy projects;
- 3 (9) Inability to acquire sufficient cost-effective
- 4 renewable electrical energy;
- 5 (10) Inability to acquire sufficient renewable electrical
- 6 energy to meet the renewable portfolio standard goals
- 7 beyond 2030 in a manner that is beneficial to Hawaii's
- 8 economy in relation to comparable fossil fuel
- 9 resources;
- 10 (11) Substantial limitations, restrictions, or prohibitions
- 11 on utility renewable electrical energy projects; and
- 12 (12) Other events and circumstances of a similar nature[-]
- 13 that could not be reasonably foreseen and
- 14 ameliorated."

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

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

21 SECTION 7. This Act shall take effect upon its approval.



**Report Title:**

Renewable Portfolio Standard

**Description:**

Amends the definition of "renewable portfolio standard" to more accurately reflect the percentage of renewable energy penetration in the State. Establishes renewable portfolio standards and targets for gas utility companies that mirrors those set for electric utility companies. (HB903 HD1)

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