A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The legislature finds that Act 97, Session Laws of Hawaii 2015, amended section 269-92, Hawaii Revised Statutes, to establish a one hundred per cent renewable portfolio standard by December 31, 2045, with the intent to transition the State away from imported fuels and toward renewable local resources that provide a secure source of affordable energy. However, the calculation of the renewable portfolio standard, based on the definition of renewable portfolio standard enacted in 2001 and amended in 2006, is the percentage of electrical energy sales that is represented by renewable electrical energy. The legislature finds that the calculation of the renewable portfolio standard based on electrical energy sales (renewable electrical energy sales divided by total electricity sales), rather than on electrical energy generation (renewable electrical energy generation divided by total electrical energy generation), overestimates the amount of renewable energy serving Hawai'i's electric utility customers.
There are two fundamental issues that lead to the current discrepancy:

1. The current renewable portfolio standard calculation inflates the reported percentage of renewable energy by excluding customer-sited, grid-connected energy generation in the denominator, which becomes material with higher levels of customer-sited, grid-connected renewable energy generation and higher renewable portfolio standard percentages; and

2. The current electrical energy sales number does not include energy losses that occur between the points of electrical energy generation and the customer meter where sales are measured. Failure to address these issues would create the incorrect public perception of the State's progress towards its one hundred per cent renewable energy statutory goal.

Furthermore, the legislature finds that Hawaii's energy sector is undergoing a transition to renewable energy that is strengthening the State's economy, environment, and security. To complete this transition successfully it is also important that all relevant entities are aligned. Along these lines, the
legislature is concerned that requiring electric utilities, but not gas utilities, to increase their reliance on renewable energy creates an unfair playing field that may unintentionally harm consumers by promoting suboptimal long-lived investments in fossil fuels through gas-fired distributed electrical generation. These effects may also have near- and long-term impacts on the viability of the State's electric utilities, and near- and long-term impacts on the viability of the State's gas utilities.

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

The purpose of this Act is to:

(1) Amend the definition of renewable portfolio standard to more accurately reflect the percentage of renewable energy penetration in the State; and
(2) Establish gas utility company renewable portfolio standards for electricity generation, ensuring that the State's market for gas embraces and supports the transition away from fossil fuels and toward renewable energy.

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

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

(b) Each gas utility company that sells gas for grid-connected electrical energy generation by regulated utility operations in the State shall establish a renewable energy portfolio standard of one hundred per cent by December 31, 2045.
(c) The public utilities commission may establish standards for each gas utility company that prescribe what portion of the renewable portfolio standards shall be met by specific types of renewable gas resources; provided that where gas is composed of commingled fossil and renewable gases, the renewable gas component of the gas shall be considered to be in direct proportion to the percentage of the total heat input value represented by the heat input value of the renewable gas.

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

(e) Events or circumstances that are outside a gas utility company'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 gas producers or suppliers to meet contractual obligations to the gas utility company;

(5) Labor strikes or lockouts;

(6) Actions of governmental authorities that adversely affect the procurement of renewable gas under contract to a gas utility company;

(7) Inability to acquire sufficient renewable gas because of lapsing of tax credits related to renewable gas development;

(8) Inability to obtain permits or land use approvals for renewable gas projects;

(9) Inability to acquire sufficient cost-effective renewable gas;

(10) Inability to acquire sufficient renewable gas to meet the renewable portfolio standard goals by 2045 in a
manner that is beneficial to Hawaii's economy in relation to comparable fossil fuel resources;

(11) Substantial limitations, restrictions, or prohibitions on utility renewable gas projects; and

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

(f) By July 1, 2020, each gas utility company shall submit to the public utilities commission, for review and approval, a procedure that establishes how the gas utility company will measure and report the gas utility company's renewable portfolio standard status to the public utilities commission, and report the progress and the steps taken toward the renewable portfolio standard goals every five years thereafter.

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

(b) If a gas utility company and its affiliates aggregate their renewable portfolios to achieve the renewable portfolio standard, the public utilities commission may distribute, apportion, or allocate the costs and expenses of all or any portion of the respective renewable portfolios among the gas

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utility company, the gas utility company's affiliates, and the
gas utility company's affiliates' respective ratepayers, as is
reasonable under the circumstances.

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

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

§269-C Waivers, extensions, and incentives. (a) Any gas
utility company failing to meet the renewable portfolio standard
shall report to the public utilities commission within ninety
days following the goal date established in section 269-A, and provide an explanation for the failure to meet the renewable portfolio standard. The public utilities commission, after allowing an appropriate period of public comment, shall grant or deny a request for a waiver from the renewable portfolio standard or for an extension to meet the prescribed standard.

(b) The public utilities commission may provide incentives to encourage gas utility companies to exceed their renewable portfolio standards, or meet their renewable portfolio standards before the prescribed date, or both."

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

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

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

"Gas utility company" means a public utility, as defined under section 269-1, for the production, conveyance, transmission, delivery, or furnishing of gas.
"Grid-connected" means interconnected to the Hawaii electric system under an existing standard or rule approved by the public utilities commission. As used in this definition, "interconnection" has the same meaning as defined in section 269-141.

"Hawaii electric system" has the same meaning as defined in section 269-141.

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

1. Biogas, including landfill and sewage-based digester gas;
2. Biomass, biomass crops, agricultural and animal residues and wastes, municipal solid waste, and other solid waste;
3. Biofuels; and
4. Hydrogen produced from renewable energy sources."

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

"Cost-effective" in the context of an electric utility company means the ability to produce or purchase electric energy or firm capacity, or both, from renewable energy resources at or
below avoided costs or as the public utilities commission otherwise determines to be just and reasonable consistent with the methodology set by the public utilities commission in accordance with section 269-27.2

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

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

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

(b) 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) Thirty per cent [of its net electricity sales] by December 31, 2020;

(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, 2040; and

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

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

[(d)] (d) The public utilities commission may establish standards for each electric utility company that prescribe [what] the portion of the renewable portfolio standards that
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.
If the public utilities commission determines that an electric utility company failed to meet the renewable portfolio standard, after a hearing in accordance with chapter 91, the utility shall be subject to penalties to be established by the public utilities commission; provided that if the commission determines that the electric utility company is unable to meet the renewable portfolio standards because of reasons beyond the reasonable control of an electric utility, as set forth in subsection (f), the commission, in its discretion, may waive in whole or in part any otherwise applicable penalties.

Events or circumstances that are outside of an electric utility company'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;
(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 to acquire sufficient renewable electrical energy due to lapsing of tax credits related to renewable energy development;

(8) Inability to obtain permits or land use approvals for renewable electrical energy projects;

(9) Inability to acquire sufficient cost-effective renewable electrical energy;

(10) Inability to acquire sufficient renewable electrical energy to meet the renewable portfolio standard goals beyond 2030 in a manner that is beneficial to Hawaii's economy in relation to comparable fossil fuel resources;

(11) Substantial limitations, restrictions, or prohibitions on utility renewable electrical energy projects; and
(12) Other events and circumstances of a similar nature[—]
that could not be reasonably foreseen and
ameliorated."

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(f), 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;
(ix) Cost of fossil fuel volatility; and
(x) 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. In codifying the new sections added by section
2 of this Act, the revisor of statutes shall substitute
appropriate section numbers for the letters used in designating
the new sections in this Act.

SECTION 7. This Act does not affect rights and duties that
matured, penalties that were incurred, and proceedings that were
begun before its effective date.

SECTION 8. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on January 28, 2045.
Report Title:
Energy; Utilities; 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. (HB1801 HD1)

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