ORIGINAL

MISC. COMM. NO. 2

CONSTRUCTION INDUSTRY TASK FORCE RECOMMENDATIONS

REPORT IN RESPONSE TO

SENATE CONCURRENT

RESOLUTION NO. 132, S.D. 1 (2009)

TABLE OF CONTENTS

Chapter *Page*

1. **INTRODUCTION** 1

2. **CONSTRUCTION INDUSTRY TASK FORCE RECOMMENDATIONS FOR STATE ACTIONS** 3

Construction Industry Task Force Proposals
Tax Committee Recommendations 3

Recommendation 1: Hotel/Timeshare Construction and Remodeling Tax Credit 3
Findings 3
Recommendation 3
Purpose Clause 3

Recommendation 2: Monetize Low-Income Housing Tax Credit 4
Findings 4
Recommendation 4
Purpose Clause 4

Recommendation 3: Expand Enterprise Zone Incentives 5
Findings 5
Recommendation 5
Purpose Clause 5

Recommendation 4: Residential New Construction Income Tax Credit 5
Findings 5
Recommendation 6
Purpose Clause 6

Construction Industry Task Force Proposals
Government Committee Recommendations 7

Recommendation 1: Shorten the Public Notice Period for Bids in the Procurement Process 7
Findings 7
Recommendation 7
Purpose Clause 7

Recommendation 2: Require All State Departments to Award Contracts on Bids within 30 Days 7
Findings 7
Recommendation 8
Purpose Clause 8

Recommendation 3: Require All State Agencies to Finalize Contract Certification with the Department of Accounting and General Services Within 60 Days 8
Findings 8
Recommendation 8
Purpose Clause 8

Recommendation 4: Resolution to Review the Effectiveness of Infrastructure Tools, Exactions, and Financing 9
Findings 9
Recommendation 9
Purpose Clause 9

Recommendation 5: Exempt the Department of Transportation (DOT) Airports Division from County Special Management Area (SMA) Permitting Requirements 9
Findings 9
Recommendation 10
Purpose Clause 10

Recommendation 6: Encouraging Hawaii's Governmental Entities to Conduct their Due Diligence Process in Approving the Final Environmental Impact Statement for the Honolulu Rail Transit As Expeditiously As Possible 10
Findings 10
Recommendation 10

Recommendation 7: Supporting the Preservation of the Financial Integrity of the Honolulu Transit Tax as Authorized for the Advancement of the Honolulu Rail Transit Project 10
Findings 10
Recommendation 11

Recommendation 8: Supporting the Honolulu Rail Transit Project to Be Administered By a Honolulu Transit Authority to Maximize Its Operational Viability 11
Findings 11
Recommendation 11

Construction Industry Task Force Proposals
Private Sector Committee Recommendations 11

Recommendation 1: Resolution Urging the Acceptance and Implementation of Act 141, Session Laws of Hawaii 2009, by the Counties to Facilitate the Planned Department of Hawaiian Home Lands Development of Affordable/Workforce Housing 11
Findings 11
Recommendation 12

Construction Industry Task Force Proposals
Renewable Energy Committee Recommendations 12

Recommendation 1: Revise and Expand the Production-Based Tax Credit for Ethanol to Apply to Biofuels 12
Findings 12
Recommendation 12
Purpose Clause 13

Recommendation 2: Further Consolidate and Accelerate Regulatory Approvals and Permits for Large Renewable Energy Projects to Accelerate Creation of Construction and Other Related Jobs and to Reduce the State's Annual Expenditures for Foreign Oil 14
Findings 14
Recommendation 15
Purpose Clause 16

Recommendation 3: Require the Public Utilities Commission to Establish Policies and Administrative Rules for Retail Wheeling in Hawaii's Electricity Markets 17
Findings 17
Recommendation 17
Purpose Clause 17

Chapter *Page*

Construction Industry Task Force Proposals
Workforce Housing Committee Recommendations 18

Recommendation 1: Streamline the Review Process for Permits And Other Approvals 18
Findings 18
Recommendation 18
Purpose Clause 19

Recommendation 2: Temporarily Lower County Affordable/ Workforce Housing Requirements to Stimulate Immediate Housing Construction 19
Findings 19
Recommendation 19
Purpose Clause 19

Recommendation 3: Study the Need for a State Mortgage Guaranty Fund 20
Findings 20
Recommendation 20
Purpose Clause 20

3. **ECONOMIC CONTRIBUTIONS OF THE CONSTRUCTION INDUSTRY IN HAWAII** 21

APPENDICES

A Senate Concurrent Resolution No. 132, S.D. 1 22

B The Importance of the Construction Section the Hawaii Economy 25

C Proposed Bill to Implement Tax Committee Recommendation No. 1 43

D Proposed Bill to Implement Tax Committee Recommendation No. 2 50

E Proposed Bill to Implement Tax Committee Recommendation No. 3 60

F Proposed Bill to Implement Tax Committee Recommendation No. 4 65

G Proposed Bill to Implement Government Committee Recommendation No. 1 75

H Proposed Bill to Implement Government Committee Recommendation No. 2 83

Chapter *Page*

I Proposed Bill to Implement Government Committee Recommendation No. 3 92

J Proposed Bill to Implement Government Committee Recommendation No. 5 100

K Proposed Bill to Implement Renewable Energy Committee Recommendation No. 1 109

L Proposed Bill to Implement Renewable Energy Committee Recommendation No. 2 125

M Proposed Bill to Implement Workforce Housing Committee Recommendation No. 1 159

N Proposed Bill to Implement Workforce Housing Committee Recommendation No. 2 167

Chapter 1

INTRODUCTION

Senate Concurrent Resolution No. 132, S.D. 1 (2009), established a Construction Industry Task Force to determine the economic contributions of the construction industry in Hawaii. The Concurrent Resolution also requested the Task Force to develop and propose state actions, for the purpose of preserving and creating new jobs in the local construction industry, that should include but are not limited to incentives for the renovation or construction of hotels and other tourism-related facilities, and to determine the anticipated impact of those actions on the State's economy.

The appointed members of the Task Force are: Perry O. Artates, Stanford Carr, Tom Foley, Michael Fujimoto, Warren Haruki, Don Horner, Rick Kahle, Ray Kamikawa, Micah Kane, Glen Kaneshige, Paul Oshiro, Bruce Robinson, John Sabas, Harry Saunders, Jeff Stone, and Ron Taketa. The initial meeting of the Task Force was held on August 20, 2009. At that time, the President of the Senate and the Speaker of the House of Representatives advised the Task Force members that, due to the difficult economic times, it was necessary to think outside the box to craft recommendations for the Legislature in order to bring about meaningful change. A roundtable discussion was held during which the members each spoke briefly regarding their thoughts on matters that should be considered by the Task Force. As a result, the Task Force identified five areas that need to be addressed:

(1) Workforce housing industry;
(2) Private sector;
(3) Government sector;
(4) Renewable energy industry; and
(5) Taxes and other incentives.

Accordingly, the Task Force formed five subcommittees to work on developing proposals for state actions in each of these areas. At the end of the initial meeting, Warren Haruki was elected the Chairperson of the Task Force.

Subsequent Task Force meetings were held approximately every other week. At these subsequent meetings, key parties with knowledge relating to the state of the construction industry gave presentations to the Task Force, following which the subcommittees conducted breakout sessions. The following made presentations to the Task Force:

(1) Department of Transportation;
(2) Former Director of the Department of Hawaiian Home Lands;
(3) Kaneohe Ranch;
(4) KyoYa Corporation;
(5) Queen Emma Land Corporation; and
(6) Outrigger Hotels.

The presenters were invited to act as observers and non-voting participants at the Task Force meetings.

As indicated in the Concurrent Resolution, the Task Force considered proposals for preserving and creating new jobs in the construction industry and determining the anticipated impact of those actions on the State's economy. However, due to the lack of funding for in-depth economic studies and associated impacts, the Task Force is only providing reasonable estimates of the impacts of its proposals. If the Legislature determines that additional in-depth economic studies are warranted, Task Force members will be available for discussion with economists, consultants, or tax advisers involved in more detailed studies. The Task Force is providing the Legislature with a menu of proposed actions, initiatives, and legislation that will generate a positive and immediate impact on Hawaii's economy. Taken as a whole, the Task Force did not attempt to provide a "revenue neutral" package of proposals.

Accordingly, as directed in the Concurrent Resolution, the Task Force developed a series of proposals for state actions to preserve and create new jobs in the local construction industry. The following chapter presents the Task Force's recommendations for state actions.

It is important to note that during the Task Force's initial discussions, one overarching consensus was the need to support the Honolulu Rail Transit Project. While other plans for construction in both the public and private sectors will be helpful, no other project on the horizon has the same potential for generating jobs, assisting local business, and contributing to Hawaii's overall economy. Additionally, the rail project is shovel-ready, meaning that the benefits can be realized much sooner than other undertakings that are not as further along in the planning process. With commitments of federal funding, the rail project will also have the effect of monies from outside the state being infused into our economy. As a result, the Task Force wishes to stress that support for the rail project is of utmost importance, as reflected in recommendations by the Government Committee.

Chapter 2

CONSTRUCTION INDUSTRY TASK FORCE RECOMMENDATIONS FOR STATE ACTIONS

Tax Committee Recommendations

Recommendation 1: Hotel/Timeshare Construction and Remodeling Tax Credit

Findings

- Construction activity in the visitor industry has demonstrated economic multiplier effects due to the maintenance and creation of construction employment and revenues from tourism activities. The hotel construction and remodeling tax credit was originally a four per cent refundable tax credit and was subsequently changed to a ten per cent nonrefundable credit to assist the tourism industry in its efforts to attract more visitors to Hawaii.
- The intent of the recommendation is to stimulate construction in the tourism sector by providing tax incentives for construction and renovation of hotel and time share properties by returning to the more attractive refundable tax credit.
- The recommendation is needed to counteract the negative impact that the world's economy has had on our State by boosting Hawaii's tourism and construction industries.

Recommendation

- Change the ten per cent nonrefundable hotel construction and remodeling tax credit to a refundable tax credit for construction and remodeling of hotel and timeshare properties.
- The tax credit will be available for costs incurred from 2010 through 2015.
- Costs incurred include plans, design, construction, alterations, modification, and equipment.
- The tax credit is also available for office and retail space attached to the hotel or timeshare property.
- Construction and remodeling work must comply with chapter 104, Hawaii Revised Statutes, relating to wages and hours of employees on public works.

Purpose Clause

The legislature finds that the effects of the September 11, 2001, terrorist attacks upon the United States had a devastating effect on Hawaii's economy. In October of 2001, the legislature met in special session to approve emergency measures in response to the attacks. One response was the enactment of Act 10, Third Special Session Laws of Hawaii 2001, which increased the rate of the existing hotel construction and remodeling tax credit. Act 10 altered the tax credit from a four per cent refundable tax credit to a ten per cent nonrefundable credit for costs incurred prior to July 1, 2003, to assist the tourism industry in its efforts to attract more visitors to Hawaii. Act 10 provided the stimulus needed to boost Hawaii's workforce and economy during difficult economic times. Hawaii is again in economic recession. Initiatives are needed to counteract the negative impact that the world's economy has had on our State. The legislature finds that a competitive tax credit like the one provided by Act 10 can provide an excellent means to boost Hawaii's tourism and construction industries, and thus it is necessary and warranted.

Senate Concurrent Resolution No. 132, S.D. 1 (2009), established a Task Force to determine the economic contributions of the construction industry in Hawaii. As directed in the Concurrent Resolution, the Task Force has developed a series of proposals for state actions to preserve and create new jobs in the local construction industry. The intent of this measure is to implement one of the Task Force's proposals. *[The Task Force determined that this*

paragraph is to be inserted into the purpose clause of each legislative measure to acknowledge the origin of the recommendation.]

Accordingly, the purpose of this measure is to stimulate construction in the tourism sector by creating a ten per cent refundable hotel construction and remodeling tax credit for construction and renovation of hotel and timeshare properties to boost Hawaii's construction and visitor industries. Construction activity in the visitor industry has demonstrated economic multiplier effects due to the maintenance and creation of construction employment and revenues from tourism activities.

A proposed draft bill to implement this recommendation is attached as Appendix C.

Recommendation 2: Monetize Low-Income Housing Tax Credit

Findings

- Hawaii's current law relating to the low-income housing tax credit piggybacks onto the federal low-income housing tax credit and provides a nonrefundable state income tax credit of fifty per cent of that provided under the federal tax credit.
- The intent of the recommendation is to generate more capital than is being currently generated and to enable limited financial resources to fund more projects.
- The recommendation is needed to subsidize capital markets in light of the reduction in the value of tax credits. The recommendation also provides some relief for workforce housing needs.

Recommendation

- Monetize the state low-income tax credit by permitting the exchange of unused tax credits for an interest-free loan from the Hawaii Housing Finance and Development Corporation.
- The proposed housing project must conform to the low-income housing conditions under federal law.
- A loan can also be made to match any grant made under the American Recovery and Reinvestment Act of 2009 in lieu of federal low-income tax credits.
- The balance of a loan will be forgiven after thirty years if the loan is not in default.

Purpose Clause

The legislature finds that the need for low-income housing in the State has reached its peak and that the construction industry, which is one of the primary driving forces in the State's economy, is in dire need of alternative financing mechanisms that would enable the industry to sustain and complete low-income housing projects. The idea of taxpayers in the construction industry foregoing certain state tax credits in exchange for an interest-free loan would provide an optimal solution for the affordable housing crisis in the State and would also help to get the State's economy back on its feet by providing local employment opportunities to those in the construction industry.

Accordingly, the purpose of this Act is to provide additional tax incentives for low-income housing to stimulate the construction industry and to ease the housing shortage by adding more supply onto the market. The low-income housing tax credit loan program would be administered by the Hawaii Housing Finance and Development Corporation to allow owners of qualified low-income buildings to receive a no interest loan from the State in lieu of claiming the low-income housing tax credit.

A proposed draft bill to implement this recommendation is attached as Appendix D.

Recommendation 3: Expand Enterprise Zone Incentives

Findings

- Tax and other incentives provided under the State's enterprise zone law encourage and spur private sector investment in designated areas. Private sector investment and development in a depressed or economically deprived area enhance and revitalize that area and surrounding neighborhoods by stimulating growth in the business, agricultural, or industrial segments of the economy.
- The current enterprise zone law provides for income tax, general excise tax (on contractors), unemployment insurance, and permitting relief for a limited class of activities within low-income census areas designated as enterprise zones. Qualified activities are currently limited to manufacturing, wholesaling, farming, biotechnology, and wind energy. Compliance with chapter 104, Hawaii Revised Statutes, relating to wages and hours of employees on public works, is required.
- The intent of the recommendation is to broaden the scope of the State's existing enterprise zone law to further encourage private sector investment in projects that will lead to the construction, development, or rehabilitation of new or existing buildings or structures in those areas.

Recommendation

- Expand qualified activities to include construction or remodeling costs for:
    - New or existing health care facilities
    - Historic properties
    - New or existing single-family residences
    - Multi-family dwellings
    - Hotel/timeshare construction and remodeling

Purpose Clause

The legislature finds that private sector investment and development in a depressed or economically deprived area in the State enhance and revitalize that area and surrounding neighborhoods by stimulating growth in the business, agricultural, or industrial segments of the economy. The legislature also finds that the tax and other incentives provided under the State's enterprise zone law encourage and spur private sector investment in designated areas.

Accordingly, the purpose of this Act is to broaden the scope of the State's existing enterprise zone law to further encourage private sector investment in projects that will lead to the construction, development, or rehabilitation of new or existing buildings or structures in those areas by expanding the kinds of needed construction facilities that qualify for tax incentives to include health care facilities, historic properties, residences, multi-family dwellings, and hotel and timeshare properties.

A proposed draft bill to implement this recommendation is attached as Appendix E.

Recommendation 4: Residential New Construction Income Tax Credit

Findings

- Despite the current economic downturn, there is a severe need to provide residential affordable, workforce and market housing to meet the demand of the residents of Hawaii.
- The home construction industry in Hawaii has suffered a severe decline over the past several years, which has resulted in lost jobs for many of Hawaii's construction workers.

- The intent of the recommendation is to stimulate the creation of new residential housing in the construction industry, which currently suffers from the highest unemployment in the State of Hawaii, by providing a personal income tax credit for taxpayers who purchase a qualified principal resident in the State.

Recommendation

- The income tax credit would apply to the purchase of a buyer's qualified principal residence -- dwelling or condominium -- at a rate equal to the lesser of two per cent of the purchase price or $6,000.
- A qualified principal residence means a residence, whether detached or attached, that has received a certificate of completion or final inspection after April 1, 2010, that is purchased to be the principal residence of the taxpayer for a minimum of two years and is eligible for a homeowner's exemption.
- A taxpayer who purchases a qualified principal residence on or after April 1, 2010, and before January 1, 2012 (or is under a binding written contract to purchase by December 31, 2011), would qualify for the tax credit.
- The maximum sales price of a qualified principal residence would be limited to $625,000.
- The amount of any credit allowed would be applied in equal amounts over two successive years, beginning with the taxable year in which the purchase of the qualified principal residence is made.
- A purchaser (person taking title) must meet the following adjusted gross income limits:
    - Individual: $75,000
    - Married couple: $150,000
    - If more than one unmarried person is taking title, each such single person would be subject to the $75,000 income limit

Purpose Clause

The economic stimulus of home construction can be exemplified by examining a residential project. The Hawaii Housing Finance and Development Corporation in partnership with a private builder are planning the development of a 140-unit affordable housing project for sale project in Kapolei, scheduled to being in 2010, targeted at first-time homebuyers earning 120% of median income. With the elimination of the Federal Tax Credit Program, sales absorption is expected to slow, delay, or prolong construction activity. This project will create an estimated 102 direct construction jobs over a two-year period. The proposed tax credit in this Act would cost the State a total of $840,000 at $6,000 per unit. However, the direct labor costs are estimated at $12,400,000, generating over $900,000 in state income tax revenue. Market units would require higher construction costs, thereby increasing state revenues on a per unit basis. There is concern in the real estate and financing industries that, when the $8,000 Federal Tax Credit Program ends on April 1, 2010, the housing industry will suffer further decline.

Accordingly, the purpose of this Act is to put back to work many of those in the construction industry, while providing needed homes for the people of Hawaii, by providing an income tax credit to homebuyers of qualified principal residences in Hawaii at an amount equal to the lesser of two per cent of a home's purchase price or $6,000. The benefits of the economic stimulus created by construction activity will offset the loss of state revenues through the proposed residential new construction tax credit.

Note: As in the State of Utah, the Governor could consider using federal Troubled Asset Relief Program funds to stimulate residential housing construction. For example, this program would help up to 2,000 homeowners fund new home purchases up to $6,000 each, depending upon income levels, for use at closing in the purchase of a new home. It is reported that during the first three months of the Utah program, 7,205 construction jobs were protected or created, $239,900,000 in wages were created, and $20,000,000 in taxes were generated.

A proposed draft bill to implement this recommendation is attached as Appendix F.

Government Committee Recommendations

Recommendation 1: Shorten the Public Notice Period for Bids in the Procurement Process

Findings

- Hawaii's public procurement process is inefficient and antiquated. Its procedures require protracted periods of time between each procurement step.
- The intent of the recommendation is to shorten the public notice period for bids on public contracts as allowed for under the relevant Hawaii Administrative Rules and to statutorily set a minimum public notice period.
- The recommendation will provide state agencies the ability to shorten the public notice period for simple projects without having to request a procurement exemption while still allowing agencies to provide for longer public notice periods for more complex projects.

Recommendation

- Statutorily require a minimum public notice period for public contracts that is no longer than 15 days by amending chapter 103D, Hawaii Revised Statutes, to supersede §3-11-122, Hawaii Administrative Rules, relating to Source Selection and Contract Formation.

Purpose Clause

The Legislature finds that in this period of high economic turmoil, procedural changes are necessary to enable the State to achieve a quick recovery and to provide effective economic stimulation.

Accordingly, the purpose of this measure is to provide exemptions from statutes relating to procurement and rulemaking to allow the State to expedite the implementation or expansion of programs, services, and benefits that are instrumental to the economic success of the State. In doing so, however, it is the purpose of this Act to strike a balance between expedited procedures and necessary accountability and transparency.

A proposed draft bill to implement this recommendation is attached as Appendix G.

Recommendation 2: Require All State Departments to Award Contracts on Bids within 30 Days

Findings

- Hawaii's public procurement process is inefficient and antiquated. Its procedures require protracted periods of time between each procurement step. Currently the awarding of a contract is subject to prolonged review, thereby preventing a project from proceeding in a timely manner.
- The intent of the recommendation is to require all state agencies to award contracts on respective projects within 30 days of the bid opening date by statutorily requiring all state agencies to award contracts on bids within 30 days if certain criteria are met, such as departmental requirements that are exceeded by lower bids.

Recommendation

- Statutorily require all state agencies to award public contracts on respective projects within 30 days of the bid opening date by amending chapter 103D, Hawaii Revised Statutes, to supersede §3-11-122, Hawaii Administrative Rules, relating to Source Selection and Contract Formation.

Purpose Clause

The Legislature finds that in this period of high economic turmoil, procedural changes are necessary to enable the State to achieve a quick recovery and to provide effective economic stimulation.

Accordingly, the purpose of this Act is to amend chapter 103D, Hawaii Revised Statutes, to require all state agencies to award public contracts on bid proposals within 30 days of the bid opening date. In doing so, however, it is the goal of this Act to strike a balance between expedited procedures and necessary accountability and transparency.

A proposed draft bill to implement this recommendation is attached as Appendix H.

Recommendation 3: Require All State Agencies to Finalize Contract Certification with the Department of Accounting and General Services within 60 Days

Findings

- Hawaii's public procurement process is inefficient and antiquated. Its procedures require protracted periods of time between each procurement step. Currently the awarding of a contract is subject to prolonged review, thereby preventing a project from proceeding in a timely manner.
- The intent of the recommendation is to statutorily require all state departments to finalize contract certification with the Department of Accounting and General Services within 60 days.
- This recommendation is necessary to promote and expedite construction projects that are subject to an overly long review schedule.

Recommendation

- Require all state agencies to finalize contract certification with the Department of Accounting and General Services within 60 days by amending chapter 103D, Hawaii Revised Statutes, to supersede §3-11-122, Hawaii Administrative Rules, relating to Source Selection and Contract Formation.

Purpose Clause

The Legislature finds that in this period of high economic turmoil, procedural changes are necessary to enable the State to achieve a quick recovery and to provide effective economic stimulation.

Accordingly, the purpose of this Act is to amend chapter 103D, Hawaii Revised Statutes, to require all state agencies to finalize contract certification with the Department of Accounting and General Services within sixty days. In doing so, however, it is the goal of this Act to strike a balance between expedited procedures and necessary accountability and transparency.

A proposed draft bill to implement this recommendation is attached as Appendix I.

Recommendation 4: Resolution to Review the Effectiveness of Infrastructure Tools, Exactions, and Financing

Findings

- A coordinated effort between all levels of government and the private sector is necessary to fast track construction projects in this State.
- Government imposes financial exactions on developers as a tool to help build public infrastructure. In various forms, exactions have been imposed for over 20 years relating to, for example, community facilities district financing, impact fees, and development agreements and have been responsible, over the years, for building major infrastructure in Hawaii.
- Exactions are made at different levels of government, from state agencies and departments to county departments and county councils, in exchange for land entitlements.
- As a result of the imposed and uncoordinated fees that are linked to entitlements, the building of infrastructural systems is uncoordinated and often remains unfinished.
- The intent of this recommendation is to request the Department of Business, Economic Development, and Tourism to review the development entitlement process and the exactions applied in this process.
- This recommendation is necessary to understand the cost of construction and development in this State and its effect upon the communities where development has been directed.

Recommendation

- Request the Department of Business, Economic Development, and Tourism to work with construction industry representatives to review the development entitlement process and the exactions applied in this process.
- Request the DBEDT to complete the review 15 days prior to the adjournment sine die of the Regular Session of 2010.

Purpose Clause

The Legislature finds that in this period of high economic turmoil, procedural changes are necessary to enable the State to achieve a quick recovery and to provide effective economic stimulation.

The purpose of this resolution is to facilitate understanding, coordination, and review of the exactions and entitlements system that creates a marked impact on the construction industry.

Recommendation 5: Exempt the Department of Transportation (DOT) Airports and Highways Divisions from County Special Management Area (SMA) Permitting Requirements

Findings

- The Harbors Division of the DOT is exempt from the county SMA permitting requirements. However, the Airports and Highways Divisions are not exempt, which adds to the confusion and time to make timely and needed repairs and updates to airport facilities or roadways.
- The Airports Division must to go through the county SMA process even if the work to be completed is an interior building project and does not impact the shoreline or any other exterior area of an airport footprint.
- As a result of the required but uncoordinated county SMA process, projects are delayed and costs are increased exponentially.
- The intent of this recommendation is to give the Airports and Highways Divisions the same type of county SMA exemption that is allowed for the Harbors Division.
- This recommendation is necessary to enable the Airports Division to proceed with projects that are necessary to an airport footprint and to contain escalating construction costs.

Recommendation

- Amend Chapter 261 and Chapter 205A, Hawaii Revised Statutes, to require the counties to exempt the Airports and Highways Divisions of the Department of Transportation from the county Special Management Area process.
- Specify the type of construction and development that would qualify for a county exemption.

Purpose Clause

The Legislature finds that in this period of high economic turmoil, procedural changes are necessary to enable the State to achieve a quick recovery and to provide effective economic stimulation.

The purpose of this legislation is to extend to the Airports and Highways Divisions of the Department of Transportation the same exemptions from county Special Management Area permit requirements that are provided to the Harbors Division.

A proposed draft bill to implement this recommendation is attached as Appendix J.

Recommendation 6: Encouraging Hawaii's Governmental Entities to Conduct their Due Diligence Process in Approving the Final Environmental Impact Statement for the Honolulu Rail Transit As Expeditiously As Possible.

Findings

- With Hawaii's construction industry in a prolonged employment slump, the Honolulu Rail Transit Project offers the State and the overall economy a substantial boost in construction employment. The rail project will create 10,000 jobs during its construction phase, with more than 4,000 jobs in construction alone and the balance in related industries. The rail project has already engaged more than 41 engineering, architectural and landscaping companies.
- In addition, as the appropriate land use policies are adopted, the rail project can serve as a vehicle to provide Honolulu the opportunity to preserve open space by increasing density around rail transit stations to promote walking, biking, and bus transit use in and around communities. Issues related to affordable housing, smart growth, access to education, and enhanced quality of life can be positively impacted by an expedited, but properly planned and executed, rail transit project.

Recommendation

- Urge all relevant state and county agencies to conduct their due diligence process in approving the final environmental impact statement for the Honolulu Rail Transit Project as expeditiously as possible.

Recommendation 7 Supporting the Preservation of the Financial Integrity of the Honolulu Transit Tax as Authorized for the Advancement of the Honolulu Rail Transit Project.

Findings

- The State Legislature authorized the counties to levy a county surcharge on state tax by ordinance to fund public transportation systems. In 2005, the City and County of Honolulu established a general excise tax and use tax surcharge. As part of its purpose and findings, the Honolulu City Council noted that "... traffic congestion on Oahu is a major drain on the quality of life for all island residents..." and "... the Council

finds that the most effective way to proceed to address Oahu's traffic problems is to begin with a firm financial commitment."

Recommendation

- Support the preservation of the financial integrity of the Honolulu transit tax as authorized for the advancement of the Honolulu Rail Transit Project.

Recommendation 8 Supporting the Honolulu Rail Transit Project to Be Administered By a Honolulu Transit Authority to Maximize Its Operational Viability.

Findings

- The Honolulu City Council is poised to pass a resolution entitled "Relating to the Creation of Public Transit Authority" in mid-December 2009. Among its provisions, the Public Transit Authority shall have the authority to develop, operate, maintain, and expand the City's fixed guideway system.
- The voters in the 2010 general election will be asked whether the Honolulu City Charter should be amended to create a semi-autonomous public transit authority responsible for the planning, construction, operation, maintenance, and expansion of the City's fixed guideway mass transit system.
- The construction industry taskforce supports the intent and purpose of this amendment to the Honolulu City Charter and further asks that the existing rapid transit Bus System be considered for incorporation in future organizational planning so that an integrated transit system for the island of Oahu can be achieved.

Recommendation

- Support the proposed amendment to the Honolulu City Charter to create a semi-autonomous Public Transit Authority responsible for the planning, construction, operation, maintenance, and expansion of the City's rail transit project.
- Request that the existing rapid transit Bus System be considered for incorporation in future organizational planning for an integrated transit system for the island of Oahu.

Private Sector Committee Recommendations

Recommendation 1: Resolution Urging the Acceptance and Implementation of Act 141, Session Laws of Hawaii 2009, by the Counties to Facilitate the Planned Department of Hawaiian Home Lands Development of Affordable/Workforce Housing

Findings

- The intent of Act 141, Session Laws of Hawaii 2009, is to stimulate the development of affordable housing by the Department of Hawaiian Home Lands (DHHL) and enhance the feasibility of projects with large affordable housing requirements by providing a more reasonable and convenient means of satisfying housing requirements through the DHHL.
- Act 141 will precipitate the building of more affordable/workforce housing through the DHHL, which has over 20,000 families on its waitlist.
- Families on the waitlist that obtain these homes will free up existing housing to the general market.

- Act 141 will have positive residual effects, such as increased employment in the construction industry and the provision of more timely affordable housing units to meet the high demand for this type of housing for lower-income families.
- The intent of the recommendation is to expand the implementation of Act 141 to the counties.
- A study, "Quantitative Economic Analysis of Impacts on Hawaii's Economy of the Recommendation to Support Acceptance and Implementation of Act 141 by the Counties" provides supporting data and is attached.

Recommendation

- Urge the acceptance and implementation of Act 141, Session Laws of Hawaii 2009, by the counties to facilitate the Department of Hawaiian Home Lands Development's planned affordable/workforce housing efforts.

Renewable Energy Committee Recommendations

Recommendation 1: Revise and Expand the Production-Based Tax Credit for Ethanol to Apply to Biofuels

Findings

- Section 235-110.3, Hawaii Revised Statutes, applies exclusively to ethanol. No other production incentives exist for any other type of liquid biofuel, such as biodiesel, biomass-based diesel, or bio-based jet fuel, among others.
- In 2008, Hawaii imported 41,500,000 barrels of crude oil at a cost and loss to the State's economy of approximately $4,100,000,000. Expanding the production incentive to include all types of biofuels would reduce Hawaii's dependence on imported fossil fuels, enhance energy security, diversify the State's energy base, diminish the State's carbon footprint, and contribute to the State's renewable energy goals.
- The intent of this recommendation is to broaden the existing production incentive to include all types of biofuels in order to attract investment and stimulate local production of a range of bio-based liquid fuels.
- The development of biofuel projects in Hawaii would produce significant economic benefits to Hawaii. For example, based upon independent economic impact analysis, one large-scale biofuel project alone would generate approximately 1,400 new jobs (28 in construction and engineering), $115,000,000 in new economic value, 40 megawatts of clean power, and $17,000,000 in additional tax revenue. Expanding the credit to a range of biofuel production facilities would increase the current credit's multiplier effect and generate even greater environmental, economic, and tax benefits for the state of Hawaii.

Recommendation

- Expand the *ethanol* facility credit to a *biofuel* facility credit, rendering all qualifying biofuel producers eligible to receive the credit.
- Clarify existing statutory language to allow for facilities with a capacity of greater than 15,000,000 gallons.
- Allow the credit to be claimed only during the 8-year credit period, but allow producers to claim credit for the total investment related to the biofuel facility, including expenses incurred during the construction phase.
- Prohibit producers from claiming credit in excess of total investment.
- Require qualifying facilities to be located within the State and utilize locally-grown feed stock for at least 75 per cent of its production output.
- Apply the credit exclusively to new construction.

- Delay the effective date until January 2012, so as not to tie up state funds during the construction phase.
- Eliminate "motor" from "motor fuel grade" to allow for jet fuel.
- Increase the monetary credit cap from $12,000,000 to $20,000,000.
- Eliminate the 40,000,000 gallon volumetric cap.

Purpose Clause

The purpose of this Act is to enhance the economic vitality and energy self-sufficiency of the State and to increase access to locally produced, affordable fuel.

In 2008, Hawaii imported 41,500,000 barrels of crude oil at a cost and loss to the State's economy of approximately $4,100,000,000. Unfortunately, well intended discussions and plans to remedy this situation over many years have not been fruitful, and the outflow of Hawaii's scarce dollars for off-shore fuel purchases has continued unabated. It is time for meaningful action that can result in significant, near-term commercial production of biomass-based fuels in the State.

Given Hawaii's growing energy and economic security needs, it is imperative that Hawaii begin in earnest to generate its own fuel from local feedstock production and biofuel conversion. Hawaii's climate and rich natural resource base provide a solid foundation upon which this local industry can be built. Advanced and second generation feedstocks, including sugarcane, sweet sorghum, and algae hold tremendous potential to displace fossil fuel imports, given their relatively low input requirements, exceptionally high yields, and potential to produce a portfolio of products including liquid fuels, renewable power, feed, and other bio-based co-products through various bioconversion pathways.

Notwithstanding its great potential to reduce fossil fuel imports and stimulate the local economy, bio-based fuel production in Hawaii can only be realized through near term, initial investments in feedstock production and bioconversion facilities. While the ethanol facility credit was created to provide such support, its current scope limits the State's ability to diversify its fuel mix and displace other imported fossil fuels upon which Hawaii is critically dependent, including but not limited to diesel and aviation fuel. For example, in 2008 alone, Hawaii consumed over 208,400,000 gallons of highway and off-highway diesel at an average cost per gallon of $4.63, resulting in an approximate outflow of $965,000,000 based upon Department of Business, Economic Development, and Tourism statistics. The State consumed an additional 195,000,000 gallons of aviation fuel at an average $3.08 per gallon, for another $600,600,000 in estimated outflows over the same period. Expanding production of bio-based fuel capable of displacing both gasoline and diesel fuels is imperative if Hawaii is to increase its energy security and meet its stated renewable energy targets.

Hawaii's ability to secure the substantial capital required for large-scale commercial facilities requires providing a degree of assurance to private investors, such as banks, organizations, and individuals, that they will be able to recover their investment within a reasonable time horizon. Extending the current ethanol facility tax credit to incorporate biofuels more broadly would help to attract a broader set of investors and provide additional financial support needed to stimulate and diversify Hawaii's renewable energy base.

Accordingly, the purpose of this Act is to provide tax credit incentives designed to attract needed renewable fuel investment to the State, minimize capital investment requirements of production facilities, and retain billions of dollars in the State's economy. The incentive program would be self sustaining, as the additional business and income tax revenue generated by the industry would be applied to future credits. As such, this Act directly ties the incentives to the local market, enables the removal of the current 40,000,000 gallon production cap, and provides support to a range of advanced and more efficient production technologies.

A proposed draft bill to implement this recommendation is attached as Appendix K.

Recommendation 2: Further Consolidate and Accelerate Regulatory Approvals and Permits for Large Renewable Energy Projects to Accelerate Creation of Construction and Other Related Jobs and to Reduce the State's Annual Expenditures for Foreign Oil

Findings

- There is a critical need to expeditiously develop and construct renewable energy projects that utilize Hawaii's bountiful indigenous sources of renewable energy and to reduce our over-dependence on imported fossil fuels.
- Attaining this independence has been a long-standing objective for the State, which is the most dependent of all the states on petroleum for its energy needs. It pays the highest electricity prices in the United States, and its gasoline costs are among the highest in the country. Fuel surcharges that pass the increases in fuel costs to consumers have significantly increased the cost of over eighty per cent of the goods and services sold in Hawaii. Household fuels and utilities costs rose 36.4 per cent from the previous year, as reflected in the Honolulu consumer price index during the second quarter of 2008. Hawaii's energy costs approach eleven per cent of its gross domestic product whereas, in most states, energy costs amount to four per cent of gross domestic product. Between 2005 and 2008, state government consumption of electricity increased 3.9 per cent, but expenditures increased 56.8 per cent.
- The process for obtaining the necessary permits for renewable energy projects and meeting state, county, and federal regulations has been described as overly time-consuming, cumbersome, onerous, and costly.
- The "Hawaii Integrated Energy Policy Report" of 1991 found that the permit and approval process required for the development and siting of energy facilities for a single project can take up to seven years to complete.
- The inefficiency of the regulatory and permitting process acts as a substantial barrier and impediment to meeting Hawaii's critical renewable energy needs and mandates by creating significant delays, adding costs, deterring investment, and harming the feasibility of development and implementation of renewable energy projects.
- For compelling economic and security reasons, Hawaii cannot continue to impede construction of renewable energy projects under its existing regulatory and permitting scheme while uselessly hoping for relief from our over-dependence on imported fossil fuels. There is a compelling state interest in encouraging and stimulating the immediate construction of renewable energy projects to utilize Hawaii's indigenous renewable energy resources for the health, safety, and welfare of the residents of Hawaii. To achieve this compelling state interest, it is necessary to establish an expedited and streamlined permitting process that creates a regulatory framework that is predictable, non-duplicative, encourages private investment, and makes feasible the expeditious development of renewable energy projects in Hawaii.
- Chapter 201N, Hawaii Revised Statutes, was enacted as Act 207, Session Laws of Hawaii 2008, and establishes a renewable energy facility siting process to expedite the review and approval of state and county permits necessary for the siting, development, construction, and operation of renewable energy facilities of at least 200 megawatts of electricity (and as amended by Act 155, Session Laws of Hawaii 2009, to between 5 and 199 megawatts with the permission of the energy resources coordinator).
- Chapter 201N was intended to coordinate and facilitate permitting for renewable energy projects in order to reduce Hawaii's overdependence on fossil fuels and meet Hawaii's energy self-sufficiency goals and mandates by encouraging timely development of renewable energy projects that utilize Hawaii's indigenous renewable energy resources for the health, safety, and welfare of the residents of Hawaii.
- Since its enactment, no renewable energy projects have been processed under the consolidated, expedited processing, and no rules to implement this chapter have been adopted.
- Further facilitation of immediate construction of large renewable energy facilities, by removing regulatory and permitting impediments to construction, will:
    - Create construction and other related jobs and spending.
    - Avoid export of billions of dollars from Hawaii's economy for foreign oil.
    - Further state policy and renewable energy mandates and goals by reducing overdependence on imported fossil fuels.

- Up to 600 megawatts of wind farm projects are currently planned in Hawaii, including 200 megawatts on Lanai and 200 megawatts on Molokai.
- For a 200 megawatt wind farm, 350 peak construction-related jobs and $500,000,000 aggregate costs are projected, based upon:
    - Spending of approximately $2,500,000 per megawatt.
    - Construction of all 600 megawatts of large wind farm projects resulting in aggregate spending of $1,500,000,000, of which 25 per cent ($375,000,000) can be allocated to labor costs, and of which 75 per cent ($281,250,000) can be allocated to local labor.

- In 2008, Hawaii imported 41,500,000 barrels of crude oil at a cost and loss to the State's economy of approximately $4,000,000,000. Expedited development of renewable energy projects that utilize Hawaii's indigenous renewable energy resources will stimulate construction and other jobs, mitigate economic loss to Hawaii's economy, reduce Hawaii's over-dependence on imported fossil fuels, enhance energy security, diversify the State's energy base, diminish the State's carbon footprint, and contribute to the State's renewable energy goals.

Recommendation

- Facilitate and stimulate immediate construction of large renewable energy facilities by removing regulatory and permitting impediments to construction.

- Statutorily require coordination of concurrent approval processes, eliminate redundancy in permitting, provide for clear, fair, and expedited deadlines and other efficiencies in processes and procedures, and give the state energy resources coordinator the necessary power and authority to implement and further the State's compelling interest in immediate construction of renewable energy facilities while ensuring and not circumventing fair but non-redundant opportunity for public review and comment and mitigating potential environmental and other impacts from the projects.

- Achieve these purposes by providing and clarifying that:
    - The energy resources coordinator shall have all necessary power and authority, which shall be liberally construed, to implement the compelling state interest in immediate construction of large renewable energy projects covered by chapter 201N, Hawaii Revised Statutes, in order to:
        - Receive, accept, review, coordinate, and approve consolidated applications -- in a form prescribed by the energy resources coordinator -- for all permits necessary for the development of a renewable energy facility on an expedited basis.
        - Coordinate and process permits concurrently and complete the review and approval of a consolidated application and all related permits within six months of receipt, subject only to the final acceptance of any required environmental assessment and/or environmental impact statement.
        - Process all permits concurrently with the processing of an environmental assessment and/or environmental impact statement, and clarify that at the request of the applicant, an environmental impact statement may be prepared without the need to first prepare an environmental assessment.
        - Within sixty days following receipt of a completed consolidated application, in consultation with relevant federal, state, and county agencies, determine the terms and conditions to be imposed on the state and county permits that are necessary to protect the public health, safety, and welfare without unduly delaying, impairing, or frustrating the purposes, policies, or goals of expedited development of renewable energy facilities.
        - Immediately, upon determining the necessary terms and conditions of state and county permits, on behalf of the relevant state and county agencies, approve the state and county permits with those conditions, effective on the sixty-first day after acceptance of a

completed consolidated application; provided that if an approval of a federal permit or delegated environmental permit and/or the acceptance of an environmental assessment or environmental impact statement is a prerequisite to the approval of a required state or county permit, the approval of the permit shall be conditioned upon and made effective one business day following the approval of the federal permit, delegated environmental permit and/or acceptance of the environmental assessment or environmental impact statement, as the case may be.
    - To the extent practicable, consolidate required public hearings to cover all permits.

- A renewable energy facility for which all necessary state and county permits have been approved shall be deemed a permitted use on the land upon which it is situated.
- The energy resources coordinator shall establish and implement a system to coordinate and concurrently process the review and approval by the Public Utilities Commission (PUC) of any power purchase agreement for electricity generated by a renewable energy facility and may convene an interagency working group for these purposes.
- Statutorily provide that if the public utility and the supplier of nonfossil fuel-generated electricity fail to reach agreement on the terms of a power purchase agreement, including, without limitation, the rate payable by the public utility for the electricity, then either party may request the PUC to prescribe a just and reasonable rate or other term, and the PUC shall prescribe the term within sixty days of the request.
- Within sixty days from the effective date of the proposed Act, the energy resources coordinator, after consultation with prospective applicants and related governmental agencies, shall adopt:
    - A consolidated application form consistent with these streamlining and concurrent agency approval processing purposes.
    - Interim rules without regard to the notice and public hearing requirements of section 91-3, HRS, or the small business impact review requirement of chapter 201M, Hawaii Revised Statutes.
- The contested case provisions of chapter 91, HRS, shall not apply to the review, processing, or approval of any state or county permit for a renewable energy facility, and any person aggrieved by the approval of a state or county permit or any term or condition may file an action for relief in the appropriate circuit court.
- The proposed Act shall supersede any other conflicting state law or county law.

Purpose Clause

The purpose of this Act is to enhance the State's economic vitality and energy security and self-sufficiency by facilitating the immediate construction of large renewable energy projects covered under chapter 201N, Hawaii Revised Statutes.

In 2008, Hawaii imported 41,500,000 barrels of crude oil at a cost and loss to the State's economy of approximately $4,100,000,000. Unfortunately, well intended discussions and plans to remedy this situation over many years have not been fruitful, and the outflow of Hawaii's scarce dollars for off-shore fuel purchases has continued unabated. Chapter 201N, Hawaii Revised Statutes, establishes a renewable energy facility siting process to expedite the review and approval of state and county permits necessary for the siting, development, construction, and operation of renewable energy facilities of at least 200 megawatts of electricity (and as amended by Act 155, Session Laws of Hawaii 2009, to between 5 and 199 megawatts with the permission of the energy resources coordinator).

This law was intended to coordinate and facilitate permitting for renewable energy projects in order to reduce Hawaii's overdependence on fossil fuels and meet Hawaii's energy self-sufficiency goals and mandates by encouraging timely development of renewable energy projects that utilize Hawaii's indigenous renewable energy resources for the health, safety, and welfare of the residents of Hawaii.

Since enactment of this law in 2008, no renewable energy projects have been processed under the consolidated, expedited processing, and no rules to implement this chapter have been adopted.

It is time for meaningful action that can result in significant, near-term construction of large renewable energy projects. Further facilitation of immediate construction of large renewable energy facilities, by removing regulatory and permitting impediments to construction, will:

(1) Create construction and other related jobs and spending;
(2) Avoid the outflow of billions of dollars from Hawaii's economy for foreign oil; and
(3) Further state policy and renewable energy mandates and goals by reducing overdependence on imported fossil fuels.

A proposed draft bill to implement this recommendation is attached as Appendix L.

Recommendation 3: Require the Public Utilities Commission to Establish Policies and Administrative Rules for Retail Wheeling in Hawaii's Electricity Markets

Findings

- While some states in the 1990s opted to fully or partially unbundle their electricity sectors to allow for competitive generation segments, separate transmission and distribution segments, and independent system operators (ISOs), Hawaii has yet to unbundle its electricity sector at all, with each island's utility still operating as a vertically-integrated regulated monopoly that owns all transmission, distribution, and generation assets.
- In general, retail wheeling refers to the distribution of electricity owned by a power supplier and sold to a retail consumer over transmission and distribution lines of a utility that is not itself producing the electricity. While fifteen other states have actively restructured their energy markets and adopted retail wheeling in some form, Hawaii prohibits wheeling, requiring independent power producers (IPPs) to sell power exclusively to the local utility rather than allowing for direct sale to end users.
- In an environment and electricity market such as Hawaii's, wheeling can provide a vehicle for increased competition in energy markets, improved service, and customer choice without requiring the utility to divest its own generation assets or lose control over the operation of transmission and distribution.
- Further, retail wheeling can be an effective means of fostering innovation and greater renewable energy production, as renewable IPPs can take advantage of end-user preferences for cleaner power to secure higher prices for their output than may be possible under a given utility's avoided-cost formula.
- Allowing retail wheeling would provide an alternative option for IPPs that are not presently covered under the feed-in-tariff schedule being established by the Public Utilities Commission and the Consumer Advocate.
- Expanding IPPs off-take options will help to attract additional renewable energy investment, contributing to local economic development, job creation, and greater energy security for the State of Hawaii.

Recommendation

- Within one year of the effective date of the proposed legislation, require the Public Utilities Commission to establish the necessary policies and administrative rules for retail wheeling to enable independent power producers to sell electricity directly to end-users.

Purpose Clause

Establishing policies and administrative rules to allow retail wheeling in Hawaii would increase competition within Hawaii's electricity markets, expand customer choice, and diversify Hawaii's energy base. Retail wheeling would provide additional options for independent power producers to sell output at favorable prices

and help attract additional investment into the sector. Expanded investment in solar, wind, biomass, and other forms of renewable energy will provide an economic stimulus to the State and directly translate into additional construction and related jobs, generating other economic, environmental, and social benefits.

The purpose of this Act is to diversify Hawaii's energy base, enhance competition in Hawaii's electricity markets, and provide incentives for the production of renewable energy by allowing for retail wheeling by independent power producers.

Workforce Housing Committee Recommendations

Recommendation 1: Streamline the Review Process for Permits and Other Approvals

Findings

- The state and county processes for the review of permits and other approvals for workforce housing and other projects often result in significant delays prior to the start of construction.
- The intent of this recommendation is to streamline portions of the review processes for permits and other approvals to minimize delays and to expedite the construction for workforce housing and other projects.

Recommendation

- Establish maximum time periods to grant or deny business or development related permits, licenses, and other approvals for construction:
    - Broaden the scope of section 91-13.5, Hawaii Revised Statutes, to specifically include county land use, subdivision, grading/grubbing, building, plan approval, and other permits and approvals to establish maximum time periods for consideration and disposition.
    - If a denial is not issued within 30 calendar days of submittal of a completed application, a business or development related permit, license, or approval shall be deemed approved. Make provision effective on January 1, 2011, to allow orderly implementation.
    - Repeal the provision in section 91-13.5(f), Hawaii Revised Statutes, that allows an exemption by county ordinance to the present requirement of establishing maximum review periods.
- Authorize the counties to provide third-party reviews for permit processing. Establish liability thresholds for third-party review services:
    - Authorize licensed architects and engineers that are qualified by a county to certify compliance for Building, Electrical, Mechanical/Plumbing, Land Use Ordinance, and Structural Codes for building permit and other approvals.
    - Third-party reviewers shall be retained by an owner and all fees and costs for third-party review services shall be the responsibility of the owner.
    - Third-party reviewers shall conduct plan review services for the purpose of certifying that the proposed plans and specifications are in compliance with federal, state, and county laws, codes, ordinances, rules, and other requirements.
    - Certifications by third-party reviewers shall be limited to only those areas approved by the county and in which the third-party reviewer is duly qualified.

- Third-party reviewers shall not have the authority to grant modifications, variances, waivers, exemptions, or other discretionary approvals.

- Private individuals or entities providing third-party review services shall be immune from liability, except for intentional misconduct, gross negligence, or malfeasance.

- Specify that projects previously reviewed by the State Historic Preservation Division (SHPD) pursuant to section 6E-42, HRS, and found to have no impact on historic properties, aviation artifacts, or burial sites shall not be subject to subsequent SHPD reviews.

Purpose Clause

The legislature finds that the state and county processes for the review of permits and other approvals for workforce housing and other projects often result in significant delays prior to the start of construction. It is envisioned that the enactment of statutory provisions to streamline and enhance the efficiency of the permit review and approval process along with provisions to establish maximum time periods for agencies to grant or deny related permits, licenses, and other approvals, will expedite the start of construction for these projects and thus result in the generation of construction and other related jobs.

Accordingly, the purpose of this Act is to streamline portions of the review process for permits and other approvals to minimize delays and to expedite the start of construction for workforce housing and other projects that will result in the generation of construction and other related jobs.

A proposed draft bill to implement this recommendation is attached as Appendix M.

Recommendation 2: Temporarily Lower County Affordable/Workforce Housing Requirements to Stimulate Immediate Housing Construction

Findings

- Each county has affordable/workforce housing requirements that either duplicate the State's efforts or are so onerous that the requirements prevent the construction of affordable/workforce housing.
- The requirements are not consistent across counties, ranging from liberal to restrictive in nature.
- The intent of this recommendation is to temporarily lower county affordable/workforce housing requirements to stimulate immediate housing construction.

Recommendation

- Amend Chapter 46, Hawaii Revised Statutes, to allow the State to establish county affordable/workforce housing requirements for a period of 3 years.
- Enact statewide affordable/workforce housing guidelines that reduce county requirements by forty per cent.

Purpose Clause

The legislature finds that the State's and counties' affordable and workforce housing requirements often result in significant delays prior to the start of construction. In fact, some requirements are so onerous that, in certain circumstances, the requirements prevent affordable and workforce housing from being built.

Accordingly, the purpose of this Act is to provide temporary relief from county requirements to stimulate housing construction statewide.

A proposed draft bill to implement this recommendation is attached as Appendix N.

Recommendation 3: Study the Need for a State Mortgage Guaranty Fund

Findings

- The current mortgage environment has had an impact on the availability of homes being built for first-time homebuyers.
- Developers cannot begin construction on affordable housing projects if take-out financing is not available for buyers.
- The lack of financing for affordable housing projects contributes to the lack of construction jobs which, in turn, hurts the economy with lost jobs and tax revenue losses throughout the extensive chain of services and suppliers associated with new construction.
- The intent of this recommendation is to ask for a study to consider and evaluate the need for a state mortgage guaranty fund.

Recommendation

- To request the Legislative Reference Bureau to review and study the following:
  - The feasibility of requiring private mortgage insurance companies to expand their guidelines to include financing for condominiums in Hawaii up to 95% on a loan to value ratio.
  - The feasibility of creating a mortgage guaranty fund that would provide the same coverage that private mortgage insurance provides for the lender.
  - To request the review to be completed 20 days before the end of the 2011 Legislative Session.
- To request the Department of Business, Economic Development, and Tourism to work with industry leaders from the development, housing and finance industries to analyze and determine the best course of action available to provide and stimulate economic growth in the affordable and workforce housing market.
  - To request the DBEDT to coordinate efforts between all levels of government and the private sector to fast track the construction of affordable and workforce housing projects in the State.

Purpose Clause

The legislature finds that with the current mortgage environment, financing for the development of affordable and workforce housing is often unavailable for developers in Hawaii. The scarcity of available take-out financing loans often results in no construction of affordable housing projects. The lack of new construction has a domino effect on Hawaii's fragile economy, filtering throughout the community in rising unemployment and loss of tax revenues.

Accordingly, the purpose of this Resolution is to request a study to consider and evaluate the need for a state mortgage guaranty fund.

Chapter 3

ECONOMIC CONTRIBUTIONS OF THE CONSTRUCTION INDUSTRY IN HAWAII

Senate Concurrent Resolution No. 132, S.D. 1 (2009) requested that the Task Force determine the economic contributions of the construction industry in Hawaii. Attached as Appendix B is a study commissioned by the Construction Industry Task Force entitled "The Importance of the Construction Sector to the Hawaii Economy" dated November 27, 2009.

Due to the lack of funding for in-depth economic studies, the Task Force is only providing reasonable estimates in support of our recommendations. If the Legislature determines that additional in-depth economic studies need to be conducted, Task Force members will be available to assist.

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

S.C.R. NO. 132 S.D. 1

SENATE CONCURRENT RESOLUTION

REQUESTING THE SENATE PRESIDENT AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO ESTABLISH A TASK FORCE TO DETERMINE THE ECONOMIC VALUE OF CONSTRUCTION IN HAWAII.

WHEREAS, tourism is Hawaii's principal industry, and visitor expenditures added over $12,000,000,000 into the State's economy in 2007 and over $11,000,000,000 in 2008; and

WHEREAS, the construction industry is also important to Hawaii's economy, contributing approximately $3,400,000,000 to the State's economy and employing over six per cent of the State's workforce in 2008; and

WHEREAS, the current economic situation has resulted in a 6.1 per cent unemployment rate in Hawaii as of January 2009, the highest in over twenty-five years; furthermore, the Department of Business, Economic Development, and Tourism estimates visitor arrivals will decline by 5.9 per cent for 2009, and the Chair of the Hawaii Council on Revenues anticipates a 3.2 per cent decline in construction in 2009; and

WHEREAS, the decline of the housing and credit markets, and the related construction downturn, and high unemployment are significantly affecting Hawaii's economy; and

WHEREAS, state support to study the current and potential economic benefits of the construction industry is warranted, given that the tourism and construction industries are such important drivers of the local economy, and is further warranted as the combined robustness of the construction, housing, and tourism industries can ultimately navigate the State's economy through the current recession to recovery; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-fifth Legislature of the State of Hawaii, Regular Session of 2009, the House of Representatives concurring, that the Senate President

SCR132 SD1.DOC

and Speaker of the House of Representatives are requested to establish a task force to determine the economic contributions of the construction industry in Hawaii; and

BE IT FURTHER RESOLVED that the task force consist of the following seventeen members, each having one vote:

(1) One member shall be a reputable contractor or subcontractor to represent the construction industry, appointed by the Senate President;

(2) One member shall be a representative of labor unions, appointed by the Speaker of the House of Representatives;

(3) One member shall be a representative of the banking or finance industry, appointed by the Senate President;

(4) One member shall be a tax law professional, appointed by the Speaker of the House of Representatives;

(5) Eight members shall be landowner representatives, with one member representing each island; provided that the Senate President shall appoint the representatives for the islands of Hawaii, Maui, Molokai, and Kahoolawe, respectively, and the Speaker of the House of Representatives shall appoint the representatives for the islands of Oahu, Kauai, Lanai, and Niihau, respectively;

(6) One member shall be a hotel or development industry representative who has expertise in hospitality or timeshares, appointed by the Senate President; and

(7) Four members shall be representatives of federal, state, and county governments who have expertise in tax policy, two appointed by the Senate President and two by the Speaker of the House of Representatives; and

BE IT FURTHER RESOLVED that the members of the task force shall select a chairperson from among themselves, and the chairperson is requested to convene task force meetings; and

SCR132 SD1.DOC

BE IT FURTHER RESOLVED that the task force is requested to:

(1) Determine the value of the construction industry in Hawaii, including both the direct contributions of the industry to the local economy and the industry's economic benefits through other industries, such as tourism and housing; and

(2) Develop and propose state actions, for the purpose of preserving and creating new jobs in the local construction industry, that should include but are not limited to incentives for the renovation or construction of hotels and other tourism-related facilities, and to determine the anticipated impact of those actions on the State's economy; and

(3) Include a recommendation on the implementation of any proposed state actions developed by the task force, as well as a timeline for the implementation of those state actions; and

BE IT FURTHER RESOLVED that the task force is requested to submit a report of its findings, analyses, and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2010; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Senate President and the Speaker of the House of Representatives.

SCR132 SD1.DOC

Appendix B

*The Importance of the Construction Sector to the Hawaii Economy**

by

Leroy O. Laney, Ph.D. **

Professor of Economics and Finance
Hawaii Pacific University

and

Economic Adviser to First Hawaiian Bank

November 27, 2009

* *This report was commissioned by the* ***Task Force to Determine the Economic Value of Construction in Hawaii****, established by Senate Concurrent Resolution No. 132 in the Twenty-fifth Legislature of the State of Hawaii, 2009.*

*** Dr. Laney has been Professor of Economics and Finance at Hawaii Pacific University since 1998. He was formerly Chief Economist and Senior Vice President of First Hawaiian Bank in Honolulu, and he continues to consult with the Bank and several other Hawaii institutions. Other career experience includes serving as a Staff Economist on the President's Council of Economic Advisers in the U.S. White House, as an International Economist at the U.S. Treasury, and as a Senior Economist in the Federal Reserve System. He has published widely in refereed professional journals, edited volumes, and bank publications.*

Table of Contents

Executive Summary 3

I. Why Construction is Important; An Overview 4

II. Relative Volatility of Major Sectors of Hawaii's Economy; How Does Construction Compare Over Time? 6

III. Measuring Hawaii's Construction Cycle 7

IV. Pitfalls in Measuring Construction's Share of the Economy 11

V. Smoothing the Construction Cycle 12

VI. Conclusion 15

Appendix. Construction Activity as a Guide to Forecasting the Hawaii Economy 17

Executive Summary

The purpose of this report is to analyze the importance of the construction industry in the Hawaii economy. Although any economy depends critically on its construction component, we often forget we could not live without an industry so vital. In particular, the following points are made in this report concerning Hawaii's own construction sector:

- The construction industry is more important in Hawaii than for the national U.S. economy. Dividing national construction completed by GDP, it averaged just under 8% over most of the last couple of decades. In Hawaii, that same ratio averaged almost 10%. At the peak of the last cycle, the ratio was almost 70% greater for Hawaii than for the nation.
- The construction industry is far more volatile than any other major sector of the Hawaii economy. This is not unusual. That volatility in itself may be undesirable, but it is largely unavoidable. Predicting that volatility is a critical key to forecasting the overall economy.
- Since the mid-1980s, the Hawaii construction cycle has followed a more or less fixed pattern – seven or eight years of expansion followed by a contraction for about the same length of time. That is true with respect to both the absolute dollar figures and relative to GDP.
- State economies as small as Hawaii are more dependent on external capital sources whether they like or not. This inevitably comes in waves that local interests are unable to control as much as they might like.
- At least counterproductive local measures can be avoided. Hawaii sometimes does not do this, and the list of examples is fairly long.
- Often these counterproductive measures are enacted at the peak of the cycle, on the assumption that the boom will go on forever. But their negative effect ironically occurs in the following slump. Only intelligent policy-making combined with accurate forecasting can avoid this. But there are enough leading indicators in the construction industry that the latter is not that hard to come by.
- One force that tends to mitigate the construction cycle is cost inflation. These costs generally follow the cycle, rising in booms and falling in downtrends. That is happening now in Hawaii, and it could provide a countercyclical influence. Lower costs mean lower bids, and that in turn means bargains to those able to take advantage of such cost trends.

I. Why Construction is Important; An Overview

Construction is an important sector of any economy, and in Hawaii it is more important than in most other places. Not only is it an important sector in its own right – originating direct, indirect and induced effects that spread throughout the rest of the economy and provide mostly higher than average income jobs – it also has a unique characteristic that most other important sectors do not have. That is because it enables future economic growth by expanding, maintaining, and renovating the stock of physical capital. That is, the structures it builds make it possible for other industries to contribute to the economy.

Any macroeconomic *production function* includes two basic inputs – labor and capital.[1] One of these is no good without the other. Labor alone cannot provide the goods and services necessary to make the economy function, and capital is useless without the labor to make it productive. Just as education leads to a more productive labor force, construction fulfills the role of adding and maintaining physical capital.

That physical capital includes residential dwellings, commercial and industrial buildings, and infrastructure.

- The work force must have shelter, and residential construction activity provides this.
- That residential activity fuels another very important sector, real estate. And it provides jobs in the financial sector also, because that sector originates things like mortgage loans, insurance, and title searches.
- When the work force goes to work, much of that work takes place in office buildings.
- Some of the work force finds jobs in hotels, and certainly the Hawaii visitor industry could not exist without a wide variety of hotels, time share, and resort residential structures.
- An important sector like retailing could not exist without retail outlets and malls, and it is supplied by inventories housed in warehouses.
- Public sector infrastructure provides the roads, bridges, harbors, and other structures that make the economy function.
- Energy to run the entire economy could not exist without power plants.

And the list goes on. Thus, construction touches *all* other industries without exception, and makes it possible for all of them to operate. Without continuing construction over time, any economy would cease to exist.

---

[1] In macroeconomics, production functions for entire national economies are often estimated. In theory, they are the summation of all the production functions of individual producers.

Just the direct economic activity of the construction sector in Hawaii is quite significant. At the peak of the most recent construction cycle in Hawaii in 2007, taxable construction activity amounted to over $8 billion. That compared to visitor expenditures of $12.6 billion in this economy's main engine that same year.

How does the Hawaii construction sector compare in importance to other places? A rough idea can be had be had by dividing total construction completed (private residential and non-residential as well as the public sector) by Gross Domestic Product in Hawaii and the United States as a whole.

Chart 1.

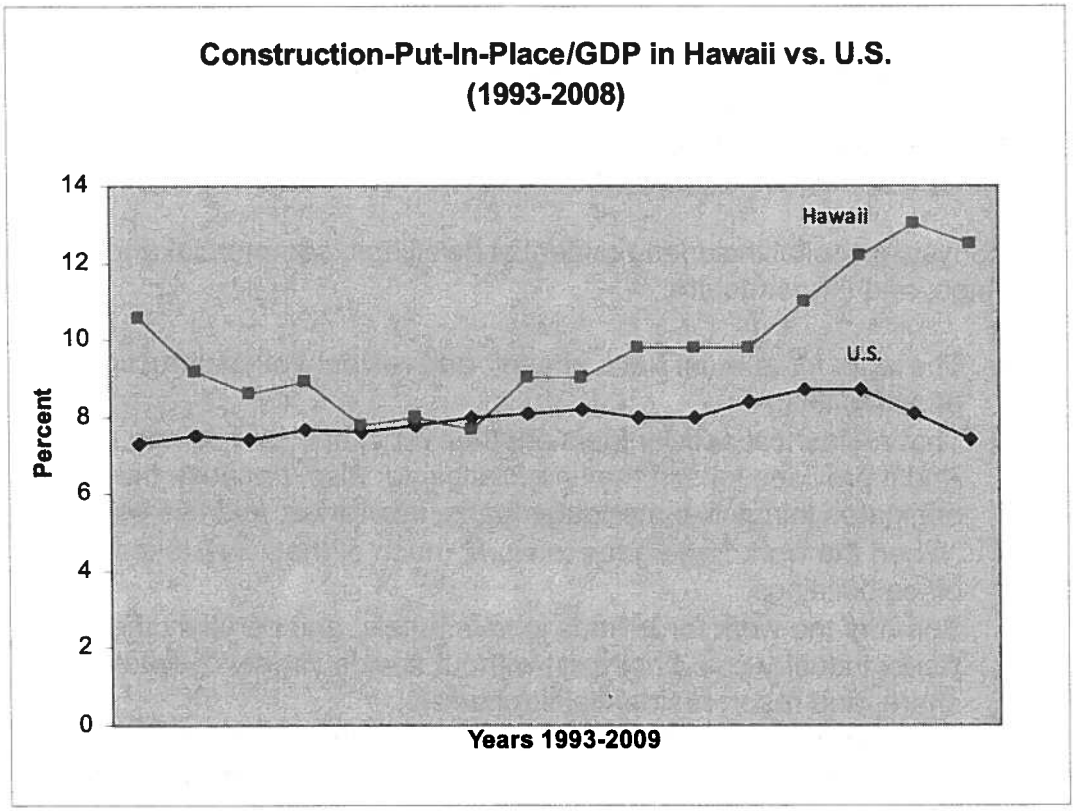


Chart 1 demonstrates that the construction component was consistently larger for Hawaii than for the nation over the local cycle that started a downturn in the early 1990s, bottomed out in the late 1990s, and then entered a boom that lasted until 2007. Only at the bottom of Hawaii's construction slump in the late 1990s did local construction's contribution fall to same level as that of the nation. And in the most recent boom that local share far outstripped the nation. Over the 1993-2008 interval shown in the chart, construction completed relative to GDP averaged 9.8% for Hawaii and 7.9% for the United States economy as a whole. In the most recently available year

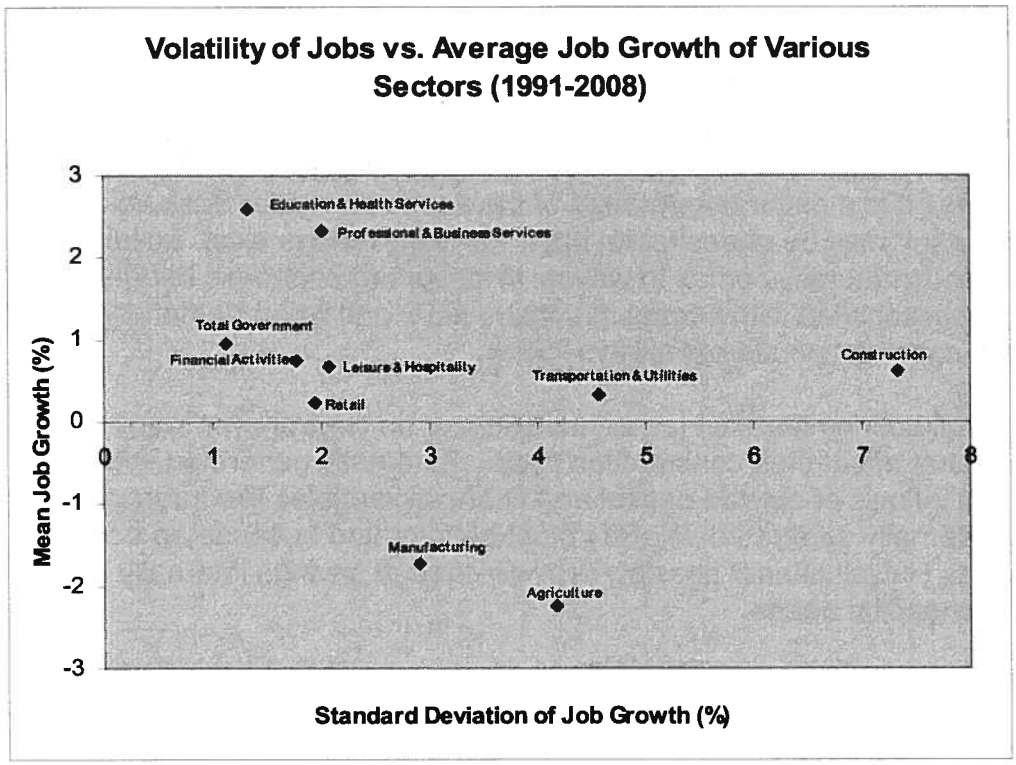
of 2008, the construction sector measured in this fashion was almost 70% greater than for the nation as a whole.

II. Relative Volatility of Major Sectors of Hawaii's Economy; How Does Construction Compare Over Time?

The construction sector is always and everywhere a relatively volatile component of the economy. How does the volatility of the construction cycle here compare to that of other important sectors of the Hawaii economy? One way to summarize this is to plot that volatility against average growth of major sectors. Chart I does this, taking jobs in these sectors as a proxy for economic activity. (Using jobs instead of dollar figures avoids the necessity of adjusting different sectors for differential rates of inflation.)

Chart 2 plots average job growth in percent from 1991 to 2008 against the standard deviation of that job growth for ten important Hawaii job categories. Strongly growing sectors, like educational and health services as well as professional and business services, showed high average growth over the period. Shrinking sectors like agriculture and manufacturing showed negative average job growth. Most other sectors were more stable in average growth – leisure and hospitality, retailing, financial activities, transportation and utilities, and government, for example.

Chart 2.



Yet the real story here lies in the volatility of jobs over time. Tracing various observations along the horizontal axis in Chart 2 shows sectors like government, financial activities, retailing, and even large sectors for Hawaii like leisure and hospitality, did not contribute as much to the ups and downs of the economic cycle. Agriculture and manufacturing shrank at high enough sporadic rates that they added more volatility, and the higher volatility of transportation is traceable mostly to large single events like the exit of Aloha Airlines and perhaps the ramping up and subsequent decline of the Superferry.

Construction, however, is the real outlier on the horizontal standard deviation scale. That sector has by far the largest volatility, even though its average growth over the entire interval taken together was not that large at all. (The job category with the highest mean growth, education and health services, added over 27,000 jobs over the interval examined, but it did so steadily over time. Construction jobs, on the other hand, jumped around more – from a trough of 22,600 jobs in 1999 to a peak of 39,100 in 2007, for example.)

The greater volatility of the construction sector suggests that if we can accurately forecast construction activity, this can serve as a very useful guide to forecasting the overall economy. In this sense, often a more volatile explanatory variable has the advantage over a less volatile one, even if that less volatile one is larger in absolute amount. The Appendix to this report demonstrates how this is so.

III. Measuring Hawaii's Construction Cycle

Because construction is a more volatile industry than other components of the economy, it is a major determinant of the economic cycle. Such volatility in and of itself may be undesirable, but it will likely always exist. Building activity of all kinds naturally comes in waves. Widespread economic booms are usually associated with surges in construction, and when demand is satiated lulls in construction almost always follow.

Regional economies like Hawaii have little or no control over many of the things that affect their construction cycle. Externally generated influences include inflows of outside capital and financial variables like interest rates. Yet this externally generated volatility must be tolerated because an economy as small as Hawaii cannot possibly provide enough savings internally to finance all of its capital needs.

In addition, building booms and busts come in waves for other reasons, such as demographic trends that affect household formation and home demand, development and redevelopment cycles that are affected by the age of the

capital stock, and foreign investment injections caused by speculative booms abroad. Other sectors of the Hawaii economy -- government, military spending, agriculture, and even tourism -- do not have so pronounced a cycle, and if they do it is usually influenced by non-economic factors such as wars, the weather, and disease scares. The following two figures examine fluctuations in the Hawaii construction sector.

One common way to measure construction in Hawaii is to observe the General Excise tax base, sometimes referred to as construction-put-in-place. Chart 3 below plots such taxable construction completed over time, with peak and trough years in a different color. Chart 4 adds another dimension: it takes this measure of construction as a percent of Gross Domestic Product.

Chart 3.

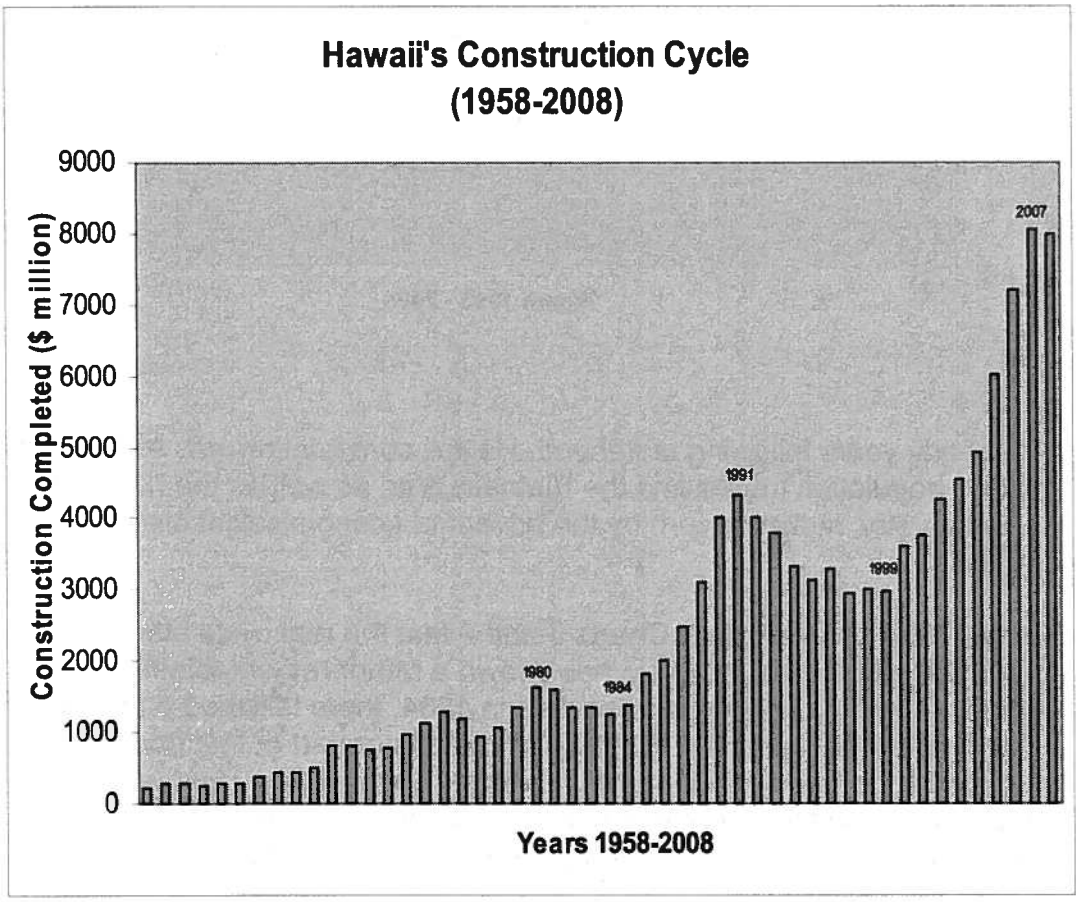
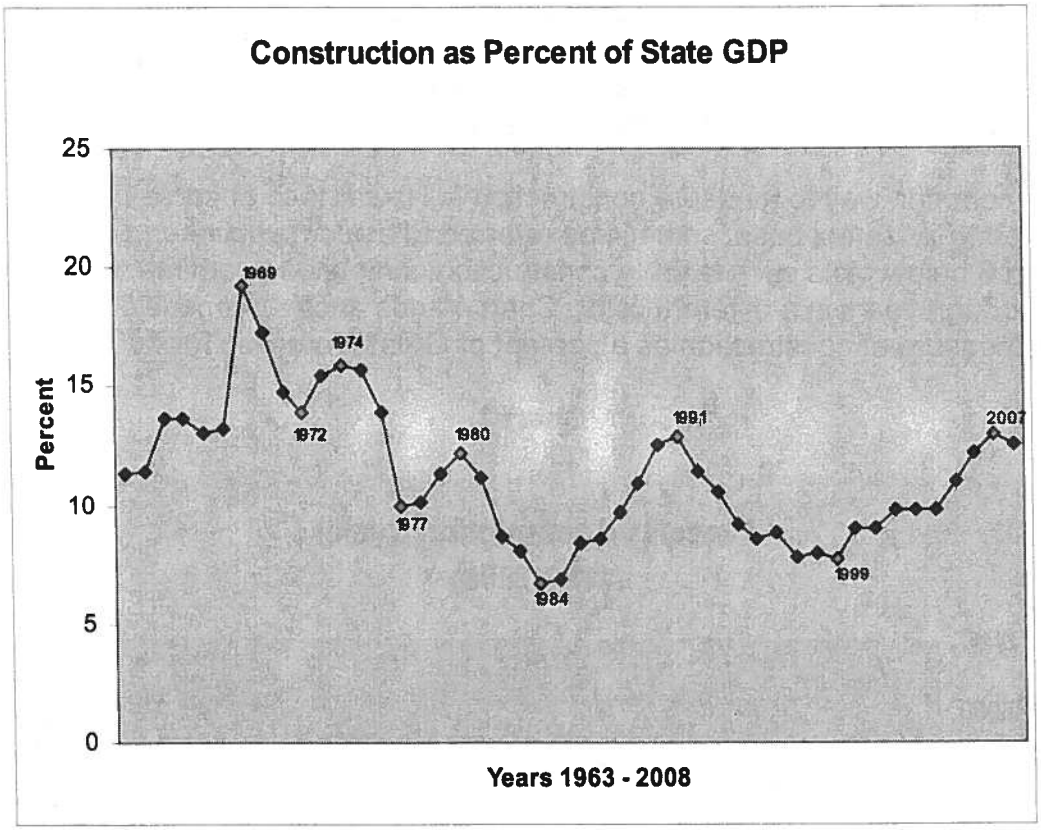


Chart 4.



In the early years following statehood, Hawaii construction was influenced by growing population trends and the Vietnam War, as well as the rise of its visitor industry, stoked in turn by the advent of economical jet air travel to the islands.

But it is apparent from both Charts 3 and 4 that the real cycle started in the mid-1980s. After that, the cycle has shown a rather remarkable fixed periodicity. After a trough was reached in 1984, there followed a seven year boom that lasted until 1991. Especially in the later part of that boom, a primary driving force was external investment from Japan. And when the Japanese speculative bubble burst in 1990, the Hawaii construction boom came to an abrupt halt the following year. The bust lasted until it bottomed out in 1999, an eight year dry spell. Then the most recent boom took off, lasting another eight years until it peaked in 2007.

When construction completed is scaled by current dollar State GDP in Chart 4, not only is the periodicity of cycle apparent, so is its amplitude. The 1991 peak at 12.9% of GDP is very close to the 2007 peak at 12.5% of GDP.

The Hawaii construction cycle had actually started to fizzle prior to 2007 in parts of the state. On the Big Island, for example, the peak happened around mid-2006. And forecasters had started to predict a downturn in the industry well before it actually occurred.

In any case, it would be a mistake to identify the turn with other events that occurred about the same time – such as the onset of national recession in December 2007 or the financial meltdown in the fall of 2008. It is true that financial collapse has made the local construction downturn worse, considering loss of confidence by potential homebuyers, hesitancy by developers in moving forward with projects in the face of greater uncertainty, and more conservative financing constraints. And all this happened despite extremely low borrowing costs and the fact that financial institutions were flush with funds due to the easing of Federal Reserve monetary policy.

Since it is now clear to practically all observers that the Hawaii construction industry peaked in 2007, the next question is: when will this down cycle end? If we have to wait seven to eight years, as the record of the previous two decades suggests, it could test the perseverance of even the most patient. But of course we are now two or three years into the downturn.

A widely circulated recent forecast for Hawaii construction projects continued contraction in this sector for 2010, but a bottoming out by 2011 in construction completed.[2] If that comes to pass, the current construction downturn will actually be shorter than some earlier ones – about half as long as the downturn of the 1990s.

That report left little doubt that a construction turnaround is not imminent, however. It projected that Honolulu median home prices for both single family units and condos would continue to fall in 2010, and then start to bottom out in 2011. A revival in residential home building was predicated on this turn in the market. Likewise, commercial and resort construction was expected to continue to be anemic, given current oversupply in resort residential and commercial developments. And the report also pushed back the impetus from Federal and State infrastructure programs, given the slowness in contracting observed in this area.

Permit growth in 2008 and the first half of 2009 certainly bear out this forecast. Statewide residential permit values were down 26% in 2008, and a further 50% in the first half of 2009. Commercial and industrial permits fell a corresponding 39% and 45%. Only government contracts offered some hope, with 10% and 11% growth in the two periods, respectively.

---

[2] See **UHERO Hawaii Construction Forecast:** ***No Bottom Yet to Construction Downturn,*** September 11, 2009.

IV. Pitfalls in Measuring Construction's Share of the Economy

At least a couple of caveats deserve mention in the measurement of construction's share of the economy. In general, these two points apply to gauging any sector's role.

First, there is the issue of economic multipliers. Many economic impact studies use such multipliers to account for the ripple effects of various kinds of spending throughout the overall economy. The logic behind the use of these multipliers is simple and quite defensible. No injection into an economy stops with the initial injection. The money is re-spent at least several times, and this re-spending should be accounted for also.

There is often a tendency to inflate multipliers in order to impress readers with the importance of an economic injection (or what would happen to the economy in the absence or removal of such an injection). Economic multipliers for the Hawaii economy might generally be relatively smaller, because their magnitude depends on leakages from the spending stream at each stage of re-spending process. These leakages generally include, at each stage, taxes, savings of money not re-spent, and imports from outside the economy. The first two of these might not be that much larger for Hawaii than elsewhere. But imports are a larger leakage here because Hawaii imports so much from the outside.

The author of this report derives a multiplier and uses it in a study for First Hawaiian Bank on the importance of Hawaii's tourism industry. The value of that induced income multiplier used in the study is 1.5. That is, one can add 50% to the original injection to measure the total effects. Compared to multipliers often used in other studies, that magnitude is rather conservative.[3]

To put it to use here, if we multiply 1.5 times the value of construction completed in Hawaii for 2007, the peak year of the most recent cycle at $8.1 billion, a value of $12.15 is obtained. That was almost 20% of State GDP that year, a very impressive figure for any industry.

Of course, if one were to follow through and apply that multiplier to *all* economic activities in the economy, the total would be 50% larger than total GDP, which is impossible. In this regard, it should be noted that the original use of the multiplier concept in the economic literature arose during the Great Depression of the 1930s, when there was considerable slack in the economy. Actual GDP was considerably less than potential GDP, so applying the

[3] A complete derivation of this multiplier can be found in Appendix I of ***Assessing Tourism's Contribution to the Hawaii Economy*** by Leroy O. Laney (First Hawaiian Bank Special Report, March 2009).

multiplier then was more rational. An economy operating closer to capacity makes the use of the multiplier concept less appropriate, although at the current juncture the local economy is again in the doldrums.

Another pitfall arises with the use of a number like construction completed relative to GDP in the first place to measure the total impact of the construction industry. Here it should be noted that the total sales of any industry relative to GDP can misleading. That is because the GDP number itself is an accumulation of *value added* contributions.

For example, to take another sector, using total retail sales to gauge the impact of retailing ignores the fact that final sales in that industry includes costs of goods sold that are often imported, warehousing elsewhere, and the like. The same is true for construction. Total construction completed includes the cost of imported materials from outside the state, as well as perhaps many other things that do not originate in the Hawaii economy. And Hawaii does not locally manufacture that much of the material inputs in construction. That is why local shipping companies follow the construction industry so closely in predicting container volumes.

If just the value added contribution of construction from the state GDP accounts is used to measure construction's impact, a smaller number of $3.7 billion, or about 6.0% of GDP, is found at the 2007 peak. (That is approximately the same share that construction jobs were of total jobs in that year.) It should be noted, of course, that this value added approach will reduce the measured economic impact of *any* sector – tourism, agriculture, manufacturing, and the military included. And comparatively, that percentage for construction is an important component. It falls behind only real estate, retailing, health care, and accommodation/food services in magnitude among private industries (and the first of those categories is of course closely related to construction). [4]

V. Smoothing the Construction Cycle

If the construction sector is so volatile that it imparts undesirable swings in an economy, can anything be done about that? There are more tools to do this at the national level than there are for smaller, regional economies. For example, things like interest rates can be influenced by monetary policy at the national level. Local economies have no such independent tool, and unlike fiscal policy, monetary policy cannot be channeled to specific locations – dollar interest rates are the same wherever those dollars flow.

[4] These industries are classified according to North American Industry Classification System (NAICS) now used to categorize the GDP accounts.

In addition, the smaller the local economy is, the less control it often has. Any regional economy has finite limits on its savings available to finance local investment. Very small economies that need to invest in a substantial capital stock – like Hawaii – have the least control of all.

For example, Hawaii needs an extensive and up-to-date visitor plant to compete with other first class destinations worldwide. But this costs a lot, so Hawaii must depend to a very large extent on external investment. With freer international investment over the past few decades, much of that can come from foreign countries, but those inflows are often harder to control or influence than national sources.

The last major international capital inflow to Hawaii came from Japan in the late 1980s.The state could not possibly have afforded the build-up in the visitor plant that came from Japan in this period. It turned out to be too much, and at development prices that were too high. This spilled over into the residential side, and home prices were bid up beyond the ability of many local residents to afford to own a home.

Of course, this did not last. Many resort developments sold for much lower prices to second and third owners when the Japanese speculative bubble unwound in the1990s. And there were residential implications on this downside also. Looking back on the episode, many might have wished to have been spared this roller coaster ride. But what would the Hawaii economy have looked like if it had not happened at all? For one thing, it would have been stuck with a deteriorated previous generation of hotels and resorts that would not have compared well at all with its tourist destination competition.

So if the surges are the only way that investment comes, in the final analysis it is better than not having them at all. Proof of this is found in the fact that Hawaii now looks wistfully to sources of capital such as China for the next wave. And if such a wave does come, it will likely be in a similar more or less irresistible fashion to Hawaii's small economy.

With small state economies as vulnerable as they are to the flows of national and international investment, lacking even the sometimes inadequate tools found at the national level, can anything at all be done to dampen the cycle in a local economy? Some hope lies in public investment and its ability to lean into the tide. But Hawaii has found in recent experience that its own public sector has had to act in a pro-cyclical rather than a counter-cyclical fashion. Constitutional requirements to balance the State budget sometimes force local government to take draconian measures at just the wrong time.

Nonetheless, it should be noted that decisions originating in the public sector can and do have a substantial impact on construction activity. These decisions can encourage or discourage local construction activity over time. If

local economies have less control over many of the factors that stimulate construction, at least they can avoid actions that retard it.

It is often easier to remember missteps that discourage investment and construction than to recount measures that have been taken to stimulate them. And sometimes measures to encourage various kinds of investment have been criticized. Tax incentives to encourage some kinds of investment may do so even though the local economy does not have a true comparative advantage in that industry. Economists therefore often suggest that the private sector should be trusted more to choose the kind of investment that that is most appropriate, not the public sector.

Ironically, the discouraging measures have a way of being timed at the peak of the construction cycle, when many foresee that it will go on forever. If the cycle reverses shortly thereafter, the measures become a drag at just the wrong time.

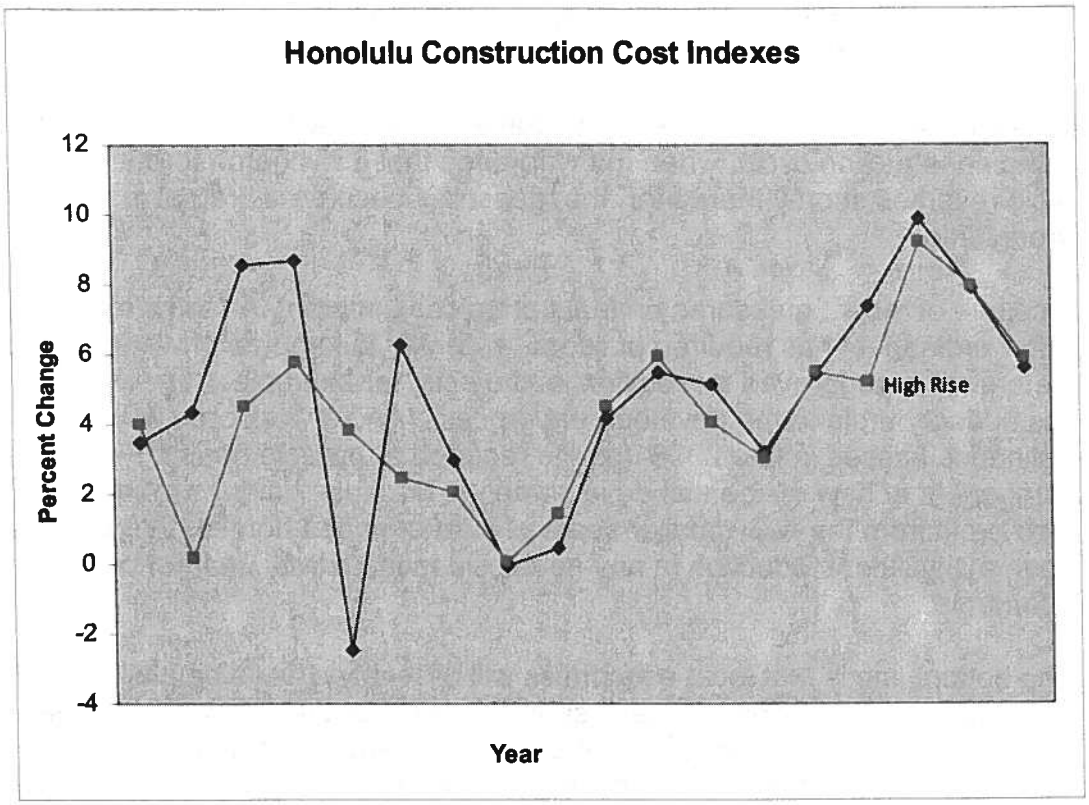
A couple of recent measures on Maui are a case in point. A "show me the water ordinance" has required builders to identify the source of water before meters will be approved for residential projects, for example. At very least, this adds a hurdle to the development process. And a workforce housing ordinance passed in late 2006 ups the required affordable housing component of new residential developments. Because builders must take their profit from the now smaller share of market priced homes, the result has been a significant reduction in any new residential activity, market priced or affordable.

The bottom line is that local economies will probably always be plagued with construction cycles. There always springs hope that the next cycle will be more muted, but it usually does not turn out that way. A more diversified economy helps, but again it is smaller economies that always turn out to be the least diversified. It could be that slower construction growth will lead to steadier growth, even though that may be a mixed blessing. Given population and aging trends, it is certain that future construction will be greatly influenced by the aging population. This will include housing as well as commercial facilities, medical complexes, and transportation as well as other infrastructure.

As with any other type of economic activity, costs affect construction. That is also related to the construction cycle, at least as much so as it is to underlying overall inflation trends. Two construction cost indexes are computed by the State of Hawaii, one for single family units and one for high rise construction. Percent changes in these two are plotted in Chart 5. Since the late 1990s, the two series have generally moved together. The construction boom of the past decade is clearly reflected in a ramp up both rates, and a more recent cooling that activity has caused lower construction cost inflation.

In that regard, prices can serve as something of a countercyclical influence and contribute to smoothing the cycle. Cheaper material and labor costs mean lower bids, and those able to take advantage of this add to construction activity in slack times. However, construction cost inflation remains higher in the chart than it has been at some earlier points in the cycle.

Chart 5.



VI. Conclusion

Construction is an important industry in Hawaii in its own right. On average, it is a larger component of this economy than for the nation as a whole, and it provides much need skilled and higher income jobs in what is basically a less than optimally diversified service economy. Even as we recognize and nurture new industries, it should not be forgotten that it is construction that will make these new components possible.

Yet it is not the absolute size of the construction industry in Hawaii that characterizes its most critical contribution. That contribution comes from the fact that it is construction that makes possible the economic growth of all other sectors, because construction adds to, renovates, and maintains the

physical capital stock. Without that capital stock, economic growth of any kind is impossible.

Economic recovery in Hawaii will be closely linked to a revival of construction. That will happen whether the construction revival is a cause or an effect of the turnaround in the overall economy. As a practical matter, the resuscitation of construction and the return of healthy overall growth across the board will likely be simultaneous, as it usually is.

As often happens in the economic cycle, booms sow the seeds of their own end, and downturns bring into being certain stabilizing forces. Those stabilizing forces this time include lower construction costs and higher residential home affordability. Even as interest rates rise over the next several years, that affordability will underpin pent-up home demand.

As the visitor industry regains strength, even though that recovery may be slow, other components of construction will revive. These include components that are directly related to tourism and some that are only indirectly linked to that sector. Some components such as resort condos and commercial development in some areas will lag as a result of previous overbuilding. But there are a number of visitor industry related projects across the state that are poised to begin as soon as there is the least bit of genuine encouragement that the cycle has turned.

Also on the positive side, there are other aspects of likely stimulus this time that have been missing in previous construction recoveries. One is the prospect of injections from the Federal stimulus packages of the last year. That has been slow in coming, and most of it will occur in 2010 – a year later than many first assumed when such spending was discussed year ago. But fiscal stimulus almost always occurs with greater lags than are first thought.

Another source of construction stimulus this time will be projects like the Honolulu urban mass transit effort. This is massive undertaking that has not accompanied previous downturns, and it should extend over a number of years. If it ramps up fairly quickly, the downswing in this construction cycle can be shorter than in previous ones. Another underpinning is military housing construction, and even though that has been ongoing for several years, it is something many economies cannot fall back upon.

Appendix.

Construction Activity as a Guide to Forecasting the Hawaii Economy

Often it is not the largest sector of an economy that is most useful in forecast its fluctuations. A more volatile sector more frequently dictates its turns. This can be illustrated by a formal but relatively simple forecasting exercise.

Let us assume we want to forecast Hawaii's Gross Domestic Product (GDP) for the coming year. We have a choice of a wide array of variables in order to do this. Logically, the first variable we might choose is some measure of the visitor industry, since that is Hawaii's most important industry. A good choice here is visitor spending, because it is a measure of actual dollars injected into the economy. Visitor arrivals might be a second choice, but spending is the bottom line regardless of how many come, how long or where they stay, and where they come from.

Since a case has been made in the text that a more volatile explanatory variable has an advantage because it more likely calls the important turns in the economy, some measure of the construction sector is also a logical choice. Construction permits are a better choice here for forecasting because permits tend to lead the cycle. They are not coincident indicator like construction completed. For completeness, we should add total private authorizations (including residential, non-residential, and additions plus alterations) to government contracts authorized. Lagging these observations one year avoids having to forecast the next year's permits and takes advantage of the role of this variable as a leading indicator.

If the goal is comprehensiveness, a number of other variables are candidates for inclusion as explanatory variables. For example, defense, real estate, and the public sector play large and important roles in the local economy. But the purpose of this exercise is simply to illustrate how the construction sector can be used to forecast, so let us stop here. (A more rigorous forecasting model would include not only more terms in this single equation, but also more equations in a complete econometric model.) All variables are in current dollar terms, to avoid using different deflators to convert them to real terms.

Performing a linear regression with GDP as the dependent variable -- and with visitor spending and total construction authorizations as the two chosen independent or explanatory variables – using annual data over the period 1983 to 2008, produces the results below. Raw data is transformed into natural logarithm form because that allows the interpretation of estimated

coefficients as *elasticities*. That is, for a one percent change in each independent variable, the dependent variable changes by the value of the coefficient. More direct information is included in the estimated coefficient that way.

The specification may be written:

$$(1) \qquad \ln GDP = a + b_1 * \ln VS + b_2 * \ln PERMITS(-1)$$

where **ln** is the natural logarithm operator, **GDP** is Hawaii Gross Domestic Product, **VS** is visitor spending, and **PERMITS (-1)** is total construction authorizations in the previous year. The intercept or constant term is designated by **a**, and $\mathbf{b_1}$ and $\mathbf{b_2}$ are the estimated coefficients or elasticities of the explanatory variables. Results were:

$$(2) \quad \ln GDP = \underset{(2.33)^*}{1.61} + \underset{(5.47)^*}{.71} \ln VS + \underset{(3.57)^*}{.32} \ln PERMITS(-1)$$

$$R^2 = .91$$

where t-statistics are in parentheses below the estimated coefficients, the asterisk * indicates statistical significance at the 99% level using a one-tailed test that the variable is signed as hypothesized, and R^2 is the coefficient of determination adjusted for degrees of freedom. The independent variables explain a very high proportion of the variation in the dependent variable, and each of the explanatory variables is quite significant.

Despite the fact that there are many factors missing from this specification, it is clear that both the visitor industry and construction are major drivers of the local economy. The coefficient on visitor spending is larger than that on construction permits, but that is not surprising given the economic role of the visitor industry. It is likely that the visitor spending variable derives much of its explanatory power from that large role, while the construction variable derives much of its explanatory power from its ability to predict turns in the economy. (Note that this says nothing about the relative importance of the two variables in the economy. In fact, the average value of visitor spending was almost four times as great as that of construction permits over the interval examined, much greater than a comparison of the two coefficients would indicate.) So construction undoubtedly complements the visitor industry greatly.

In fact, because the sum of the coefficients or elasticities almost equals one (1.03 to be exact) one might be lead to conclude that a one percent change in both of them leads to about a one percent change in GDP. While that overstates the importance of the two variables *alone*, it is not so farfetched when it is recognized how much they stand in as proxies for other activities in the economy.

Appendix C

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

SECTION 1. The effects of the September 11, 2001, terrorist attacks upon the United States had a devastating effect on Hawaii's economy. In October of 2001, the legislature met in special session to approve emergency measures in response to the attacks. One response was the enactment of Act 10, Third Special Session Laws of Hawaii 2001, which made the then existing hotel construction and remodeling tax credit more generous. Act 10 altered the tax credit from a four per cent refundable credit to a ten per cent nonrefundable credit for costs incurred prior to July 1, 2003, to assist the tourism industry in its efforts to attract more visitors to Hawaii.

Act 10 provided the stimulus needed to boost Hawaii's workforce and economy during difficult economic times.

Hawaii is again in an economic recession. Stimulus and other initiatives are needed to counteract the negative impact that the worlds' economy has had on our State. Like the experience with Act 10, the legislature finds that a generous

1 tax credit can provide an excellent means to boost Hawaii's
2 tourism and construction industries.
3 Senate Concurrent Resolution No. 132, S.D. 1 (2009),
4 established a Task Force to determine the economic contributions
5 of the construction industry in Hawaii. As directed in the
6 Concurrent Resolution, the Task Force has developed a series of
7 proposals for state actions to preserve and create new jobs in
8 the local construction industry. The intent of this measure is
9 to implement one of the Task Force's proposals.
10 The purpose of this Act is to create a hotel construction
11 and remodeling tax credit to boost Hawaii's construction and
12 visitor industries. The implementation of this legislation is
13 necessary and warranted.
14 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:
17 "§235- Hotel construction and remodeling tax credit.
18 (a) There shall be allowed to each taxpayer, subject to the
19 taxes imposed by this chapter and chapter 237D, an income tax
20 credit, which shall be deductible from the taxpayer's net income
21 tax liability, if any, imposed by this chapter for the taxable
22 year in which the credit is properly claimed.

The amount of the tax credit shall be ten per cent of the construction or renovation costs incurred during the taxable year for each qualified hotel facility located in Hawaii, and shall not include the construction or renovation costs for which another credit was claimed under this chapter for the taxable year; provided that the construction or renovation costs are incurred before December 31, 2015.

In the case of a partnership, S corporation, estate, trust, association of a qualified hotel facility, time share owners association, or any developer of a time share project, the tax credit allowable is for construction or renovation costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined by rules.

If a deduction is taken under section 179 (with respect to election to expense depreciable business assets) of the Internal Revenue Code, no tax credit shall be allowed for that portion of the construction or renovation cost for which the deduction is taken.

(b) The credit allowed under this section shall be claimed against the net income tax liability, for the taxable year.

1 (c) If the tax credit under this section exceeds the
2 taxpayer's income tax liability, the excess of credit over
3 liability shall be refunded to the taxpayer provided that no
4 refund on account of the tax credit allowed by this section
5 shall be made for amounts less than $1. All claims for a tax
6 credit under this section, including amended claims, shall be
7 filed on or before the end of the twelfth month following the
8 close of the taxable year for which the credit may be claimed.
9 Failure to comply with the foregoing provision shall constitute
10 a waiver of the right to claim the credit.
11 (d) The director of taxation shall prepare any forms that
12 may be necessary to claim a credit under this section. The
13 director may also require the taxpayer to furnish information to
14 ascertain the validity of the claim for credit made under this
15 section and may adopt rules necessary to effectuate the purposes
16 of this section pursuant to chapter 91.
17 (e) The tax credit allowed under this section shall be
18 available for taxable years beginning after December 31, 2009,
19 and shall not be available for taxable years beginning after
20 December 31, 2015.
21 (f) To qualify for the income tax credit, the taxpayer
22 shall be in compliance with all applicable federal, state, and

county statutes, rules, and regulations, including the Davis-Bacon Act and chapter 104.

(g) As used in this section:

"Construction or renovation cost" means any costs incurred after December 31, 2009, for plans, design, construction, and equipment related to new construction, alterations, or modifications to a qualified hotel facility.

"Net income tax liability" means income tax liability reduced by all other credits allowed under this chapter.

"Qualified hotel facility" means:

(1) A hotel/hotel-condo as defined in section 486K-1;

(2) A time share facility or project; or

(3) Commercial buildings and facilities located within a qualified resort area.

"Qualified resort area" means an area designated for hotel use, resort use, or transient vacation rentals, pursuant to county authority under section 46-4, or where the county, by its legislative process, designates hotel, transient vacation rental, or resort use.

"Taxpayer" means a taxpayer under this chapter, and includes:

(1) Association of apartment owners; or

1 (2) Time share owners association.

2 (h) No taxpayer that claims a credit under this section

3 shall claim a credit under chapter 235D."

4 SECTION 3. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

6

INTRODUCED BY: _____

Report Title:
Tax Credit; Hotel Construction; Remodeling; Resort Area

Description:
Creates a 10% refundable tax credit for construction or renovation costs incurred on a qualified hotel facility before December 31, 2015.

Appendix D

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO LOW-INCOME HOUSING.

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

SECTION 1. The legislature finds that the need for low-income housing in the State has reached its peak and that the construction industry, which is one of the primary driving forces in the State's economy, is in dire need of alternative financing mechanisms that would enable them to sustain and complete low-income housing projects. The idea of taxpayers in the construction industry foregoing certain state tax credits in exchange for an interest-free loan would provide an optimal solution for the affordable housing crisis in the State and would also help get the State's economy back on its feet by providing local employment opportunities to those in the construction industry.

Senate Concurrent Resolution No. 132, S.D. 1 (2009), established a Task Force to determine the economic contributions of the construction industry in Hawaii. As directed in the Concurrent Resolution, the Task Force has developed a series of proposals for state actions to preserve and create new jobs in

1 the local construction industry. The intent of this measure is
2 to implement one of the Task Force's proposals.
3 The purpose of this Act is to establish a low-income
4 housing tax credit loan program that would be administered by
5 the Hawaii Housing Finance and Development Corporation to allow
6 owners of qualified low-income buildings to receive a no
7 interest loan from the State in lieu of claiming the low-income
8 housing tax credit.
9 SECTION 2. Chapter 201H, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:
12 "**§201H- Low-income housing tax credit loan.** (a) The
13 corporation may provide a no interest low-income housing tax
14 credit loan to an owner of a qualified low-income building that
15 has been awarded federal credits which are subject to the state
16 housing credit ceiling under section 42(h)(3)(C) of the Internal
17 Revenue Code, federal credits which are allocated pursuant to
18 section 42(h)(4) of the Internal Revenue Code, or a subaward
19 under section 1602 of the American Recovery and Reinvestment Act
20 of 2009, Public Law 111-5. The loan shall be in an amount equal
21 to per cent of the cash value of the amount of the low-
22 income housing credit determined under section 235-110.8 for

1 each taxable year in the ten year credit period discounted to
2 present day value and capitalized at the rate of interest on the
3 taxable general obligation bonds used to fund such loan.
4 (b) A qualified low-income building for which the owner is
5 provided a low-income housing tax credit loan under this section
6 shall not be eligible for the credit under section 235-110.8.
7 (c) The corporation shall impose conditions or
8 restrictions on the low-income housing tax credit loan
9 including:
10 (1) A requirement providing for acceleration and
11 repayment, on any no interest loan under this section
12 so as to assure that the building with respect to
13 which such loan is made remains a qualified low-income
14 building under Section 42 of the Internal Revenue Code
15 or Section 1602 of the American Recovery and
16 Reinvestment Act of 2009, Public Law 111-5. Any such
17 repayment shall be payable to the housing finance
18 revolving fund;
19 (2) The same limitations on rent, income, and use
20 restrictions on such buildings as an allocation of
21 housing credit dollar amount allocated under section
22 42 of the Internal Revenue Code; and

(3) The payment of reasonable fees for the corporation to perform or cause to be performed asset management functions to ensure compliance with Section 42 of the Internal Revenue Code and the long-term viability of buildings funded by any no interest loan under this section.

(d) The corporation shall perform asset management functions to ensure compliance with Section 42 of the Internal Revenue Code or Section 1602 of the American Recovery and Reinvestment Act of 2009, and the long-term viability of buildings funded by a no interest loan under this section.

(e) The corporation may collect reasonable fees from the owner of a qualified low-income building to cover expenses associated with the performance of its duties under this section and may retain an agent or other private contractor to satisfy the requirements of this section.

(f) If the owner is not in default, the corporation shall contribute the no interest loan to the owner of the qualified low-income building after thirty years."

SECTION 3. Section 235-110.8, Hawaii Revised Statutes, is amended to read as follows:

1 "§235-110.8 **Low-income housing tax credit.** (a) Section
2 42 (with respect to low-income housing credit) of the Internal
3 Revenue Code shall be operative for the purposes of this chapter
4 as provided in this section. A qualified low-income building
5 that has been awarded a subaward under section 1602 of the
6 American Recovery and Reinvestment Act of 2009, Public Law 111-
7 5, shall also be eligible for the credit provided in this
8 section.
9 (b) Each taxpayer subject to the tax imposed by this
10 chapter, who has filed [+]a[+] net income tax return for a
11 taxable year may claim a low-income housing tax credit against
12 the taxpayer's net income tax liability. The amount of the
13 credit shall be deductible from the taxpayer's net income tax
14 liability, if any, imposed by this chapter for the taxable year
15 in which the credit is properly claimed on a timely basis. A
16 credit under this section may be claimed whether or not the
17 taxpayer claims a federal low-income housing tax credit pursuant
18 to section 42 of the Internal Revenue Code.
19 (c) The amount of the low-income housing tax credit that
20 may be claimed by a taxpayer as provided in subsection (b) shall
21 be fifty per cent of the applicable percentage of the qualified
22 basis of each building located in Hawaii. The applicable

1 percentage shall be calculated as provided in section 42(b) of
2 the Internal Revenue Code.
3 (d) For the purposes of this section, the determination
4 of:
5 (1) Qualified basis and qualified low-income building
6 shall be made under section 42(c);
7 (2) Eligible basis shall be made under section 42(d);
8 (3) Qualified low-income housing project shall be made
9 under section 42(g);
10 (4) Recapture of credit shall be made under section 42(j),
11 except that the tax for the taxable year shall be
12 increased under section 42(j)(1) only with respect to
13 credits that were used to reduce state income taxes;
14 and
15 (5) Application of at-risk rules shall be made under
16 section 42(k);
17 of the Internal Revenue Code.
18 (e) As provided in section 42(e), rehabilitation
19 expenditures shall be treated as a separate new building and
20 their treatment under this section shall be the same as in
21 section 42(e). The definitions and special rules relating to
22 credit period in section 42(f) and the definitions and special

1 rules in section 42(i) shall be operative for the purposes of
2 this section.
3 (f) The state housing credit ceiling under section 42(h)
4 shall be zero for the calendar year immediately following the
5 expiration of the federal low-income housing tax credit program
6 and for any calendar year thereafter, except for the carryover
7 of any credit ceiling amount for certain projects in progress
8 which, at the time of the federal expiration, meet the
9 requirements of section 42.
10 (g) The credit allowed under this section shall be claimed
11 against net income tax liability for the taxable year. For the
12 purpose of deducting this tax credit, net income tax liability
13 means net income tax liability reduced by all other credits
14 allowed the taxpayer under this chapter.
15 A tax credit under this section which exceeds the
16 taxpayer's income tax liability may be used as a credit against
17 the taxpayer's income tax liability in subsequent years until
18 exhausted. All claims for a tax credit under this section must
19 be filed on or before the end of the twelfth month following the
20 close of the taxable year for which the credit may be claimed.
21 Failure to properly and timely claim the credit shall constitute
22 a waiver of the right to claim the credit. A taxpayer may claim

a credit under this section only if the building or project is a qualified low-income housing building or a qualified low-income housing project under section 42 of the Internal Revenue Code.

Section 469 (with respect to passive activity losses and credits limited) of the Internal Revenue Code shall be applied in claiming the credit under this section.

(h) In lieu of the credit awarded under this section to a qualified low-income building that has been awarded federal credits which are subject to the state housing credit ceiling under Section 42(h)(3)(C) of the Internal Revenue Code or a subaward under Section 1602 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the owner of the qualified low-income building may make a request to the Hawaii housing finance and development corporation for a loan under section 201H- . If the owner elects to receive the loan pursuant to section 201H- , the qualified low-income building shall not be eligible for the credit under this section.

[~~(h)~~] (i) The director of taxation may adopt any rules under chapter 91 and forms necessary to carry out this section."

SECTION 4. The director of finance is authorized to issue general obligation bonds in the sum of $ or so much thereof as may be necessary and the same sum or so much thereof

as may be necessary is appropriated for fiscal year 2010-2011 for the purpose of funding low-income housing tax credit loans made pursuant to section 201H-___.

SECTION 5. The appropriation made for the capital improvement project authorized by this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all moneys from the appropriation unencumbered as of June 30, 2012, shall lapse as of that date.

SECTION 6. The sum appropriated shall be expended by the Hawaii housing finance and development corporation for the purposes of this Act.

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

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

INTRODUCED BY: _____

Report Title:
Low-income Housing; Tax Credit Loans

Description:
Establishes a program for granting low-income housing tax credit loans in lieu of low-income housing tax credits administered by the Hawaii Housing Finance and Development Corporation. Authorizes issuance of GO bonds to fund loans.

Appendix E

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

SECTION 1. The legislature finds that private sector investment and development into a depressed or economic deprived area in the State enhances and revitalizes that area and its surrounding neighborhoods through stimulating growth in the business, agricultural, or industrial segments of the economy. The legislature also finds that the tax incentives provided under the State's enterprise zones law are an existing mechanism that encourages and spurs private sector investment in those designated areas.

Senate Concurrent Resolution No. 132, S.D. 1 (2009), established a Task Force to determine the economic contributions of the construction industry in Hawaii. As directed in the Concurrent Resolution, the Task Force has developed a series of proposals for state actions to preserve and create new jobs in the local construction industry. The intent of this measure is to implement one of the Task Force's proposals.

The purpose of this Act is to broaden the scope of the State's existing enterprise zones law so that it will further

encourage private sector investment to begin projects that will lead to the construction, development, or rehabilitation of new or existing buildings or structures in those designated enterprise zones.

SECTION 2. Section 209E-2, Hawaii Revised Statutes, is amended to read as follows:

1. By adding new definitions to read:

""Historic property" means a building or structure that is:

(1) Over fifty years old; and

(2) Listed on the National Register of Historic Places or the Hawaii register of historic places.

"Multi-family dwelling" means any building or structure for sale, lease, or rent that provides shelter for more than two dwellings."

2. By amending the definition of "eligible business activity" to read:

""Eligible business activity" means the:

(1) Manufacture of tangible personal property, the wholesale sale of tangible personal property as described in section 237-4, or a service business as defined in this section;

(2) Production of agricultural products where the business is a producer as defined in section 237-5, or the processing of agricultural products, all or some of which were grown within an enterprise zone;

(3) Research, development, sale, or production of all types of genetically-engineered medical, agricultural, or maritime biotechnology products; [~~or~~]

(4) Production of electric power from wind energy for sale primarily to a public utility company for resale to the public[~~.~~]; or

(5) Construction or remodeling costs associated with the development or rehabilitation of a:

(A) New or existing health care facility, as defined in section 323D-2;

(B) Historic property;

(C) New or existing single family residence; or

(D) Multi-family dwelling."

SECTION 3. Section 209E-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The governor, upon the recommendation of the director, shall approve the designation of up to [~~six~~] twelve areas in each county as enterprise zones for a period of twenty

1 years. Any such area shall be located in one United States
2 census tract or two or more contiguous United States census
3 tracts in accordance with the most recent decennial United
4 States Census. The census tract or tracts within which each
5 enterprise zone is located also shall meet at least one of the
6 following criteria:
7 (1) Twenty-five per cent or more of the population have
8 incomes below eighty per cent of the median family
9 income of the county; or
10 (2) The unemployment rate is 1.5 times the state average."
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 upon its approval.
14

INTRODUCED BY: _____

Report Title:
Tax Credit; Enterprise Zones; Eligible Business Activity; Areas

Description:
Amends the definition of an eligible business activity under the State enterprise zones law in chapter 209E, HRS, and increases the number of areas in each county that may be designated as an enterprise zone.

Appendix F

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO TAXATION.

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

SECTION 1. The legislature finds that the economic multiplier effect from large construction projects can have a profound effect on stimulating the economy in this State. Large construction projects in particular can have an enormous positive impact on the workforce in this State, from blue-collar laborers, machinists, material suppliers, architects, lawyers, escrow officers, and realtors to name a few. The urgency for large construction projects to spur or induce a positive economic multiplier is partly evidenced by the impending project in Kapolei that is a joint partnership between the Hawaii Housing Finance and Development Corporation and a private builder which will develop 140 affordable residential units that are targeted at the 120% average median income first-time home buyer. This project is anticipated to begin in early 2010 and will hopefully provide a much needed momentum to turn around the economy in this State.

However, although the project in Kapolei will be a positive step in the right direction for the construction industry, with the looming expiration of the federal government's $8,000 first-time homebuyer income tax credit and $6,500 income tax credit for other qualified homebuyers, the sales absorption of the 140 affordable residential units in Kapolei is expected to be slow, thus delaying or prolonging construction activity for many of the 140 affordable residential units. The expiring federal income tax credit could hamper any momentum that the project in Kapolei develops, which could consequently prevent a complete recovery of the construction industry in this State.

Under normal circumstances, when the sales absorption of completed units is not slow, the development and deliver of 140 residential units would create an estimated 102 direct construction jobs over a two year period. Thus, it seems that stimulating the demand side of buying new homes by providing financial incentives to homebuyers would be the greatest asset in turning around the current economic crisis faced by the construction industry and the overall economy in this State.

A state income tax credit for qualified taxpayers on the purchase of a qualified principal residence that mirrors the federal tax credit would likely provide a source for stimulating

1 the demand side for affordable new housing in Hawaii. In
2 addition, a tax credit that is appropriately crafted could also
3 provide more economic benefits to the State than costs.
4 For example, if the 140 affordable residential units in
5 Kapolei were purchased by qualified taxpayers and each qualified
6 taxpayer received a refundable income tax credit equal to
7 $6,000, then the total cost to the State for the refundable tax
8 credit would be $840,000 (140 units x $6,000). However, the
9 direct labor costs associated with developing and delivering to
10 market 140 residential units, included the hiring of labor,
11 purchase of materials, and other direct and indirect services is
12 estimated to be at $12,400,000. Taking into consideration the
13 windfall of general excise taxes, income taxes, payroll taxes,
14 and the like that would be remitted to the State, the project in
15 Kapolei would generate positive tax revenues for the State of
16 approximately $900,000, and that is assuming that each of the
17 140 residential units are purchased by a qualified taxpayer that
18 is eligible for and claims the $6,000 refundable tax credit.
19 Thus, the multiplier effect that would be created by a large
20 construction project, such as the impending project in Kapolei,
21 would more than offset any refundable tax credit payments made
22 to taxpayers by the State.

1 There is widespread concern in the real estate and
2 financing industry in this State that with the looming
3 expiration date of the $8,000 federal tax credit for first-time
4 homebuyers and $6,500 credit for other homebuyers there will be
5 a further decline in the housing and construction industry in
6 this State. Establishing a State income tax credit for
7 qualified taxpayers that purchase a newly constructed principal
8 residence would help to reduce or avoid a potentially crippling
9 housing market scenario in Hawaii once the federal tax credit
10 expires by putting back to work many of Hawaii taxpayers who
11 make a living in the construction industry. A tax credit could
12 also influence contracts to develop a greater supply for
13 affordable housing in this State if the contractors feel that
14 there is sufficient demand for purchasing affordable housing.
15 Senate Concurrent Resolution No. 132, S.D. 1 (2009),
16 established a Task Force to determine the economic contributions
17 of the construction industry in Hawaii. As directed in the
18 Concurrent Resolution, the Task Force has developed a series of
19 proposals for state actions to preserve and create new jobs in
20 the local construction industry. The intent of this measure is
21 to implement one of the Task Force's proposals.

Accordingly, the purpose of this Act is to establish a refundable State income tax credit that mirrors the federal income tax credit but limits the tax credit to qualified taxpayers that purchase a qualified principal residence on or after April 1, 2010, and before January 1, 2012.

SECTION 2. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§235- Ohana residential housing income tax credit.** (a) There shall be allowed to each qualified taxpayer subject to the tax imposed by this chapter an ohana residential housing income tax credit which shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

(b) For purposes of this section:

"Newly constructed principal residence" means a dwelling or residential unit that did not previously exist and that will result in a new structure that will be built from the ground up. A newly constructed principal residence includes a single-family home, duplex, condominium, manufactured home, or townhouse.

1 "Principal residence" means an individual's principal
2 residence located in the State where they live for more than 270
3 calendar days per calendar year.
4 "Purchase price" means all direct and indirect costs
5 associated with building a newly constructed principal
6 residence, excluding land acquisition costs and escrow closing
7 costs.
8 "Qualified principal residence" means a principal residence
9 that is a newly constructed principal residence, whether
10 detached or attached, that adheres to all of the following:
11 (1) Received a certificate of completion on or after
12 April, 1, 2010;
13 (2) Used by the taxpayer as their principal residence for
14 the immediately following two years; and
15 (3) A principal residence that is eligible for the
16 homeowner's exemption.
17 "Qualified taxpayer" means an individual that signs a
18 binding contract to purchase a qualified principal residence on
19 or after April 1, 2010, and before January 1, 2012; provided
20 that the individual closes on the purchase of their newly
21 constructed principal residence on or after April 1, 2010, and
22 before March 1, 2012.

1 (c) The amount of the tax credit shall be equal to the
2 lesser of:
3 (1) Two per cent of the purchase price of the qualified
4 principal residence; or
5 (2) $6,000;
6 provided that the tax credit shall be payable in two equal
7 installments over two consecutive taxable years beginning with
8 the taxable year in which the binding contract to purchase the
9 qualified principal residence is signed; provided further that
10 if more than one qualified taxpayer is claiming the tax credit
11 under this section, then the applicable tax credit shall be
12 divided equally between each qualified taxpayer. For purposes
13 of this paragraph a married couple is considered to be one
14 qualified taxpayer.
15 (d) If the tax credit under this section exceeds the
16 taxpayer's net income tax liability, the excess of credit over
17 liability shall be refunded to the taxpayer; provided that no
18 refunds or payment on account of the tax credit under this
19 section shall be made for amounts less than $1. All claims for
20 a tax credit under this section, including amended claims, shall
21 be filed on or before the end of the twelfth month following the
22 close of the taxable year for which the tax credit may be

1 claimed. Failure to comply with the foregoing provision shall
2 constitute a waiver of the right to claim the tax credit.
3 (e) The tax credit under this section is limited to
4 qualified principal residences with a purchase price of $625,000
5 or less.
6 (f) Each qualified taxpayer that is taking title to the
7 qualified principal residence must meet the following adjusted
8 gross income limitations in order for any of the taxpayers that
9 are taking title to the qualified principal residence to be
10 eligible to claim the tax credit under this section:
11 (1) An Individual with adjusted gross income of $75,000 or
12 less;
13 (2) A Married couple with adjusted gross income of
14 $150,000 or less; and
15 (3) A Grantor of any trust with adjusted gross income of
16 $75,000 or less.
17 (g) If a qualified taxpayer sells or no longer uses the
18 qualified principal residence as the taxpayer's principal
19 residence within 730 days after closing on the qualified
20 principal residence, then the taxpayer shall subject to
21 recapture on the previously claimed credit under this section on
22 a pro-rata dollar-for-dollar basis.

1 (h) The director of taxation shall prepare any forms that
2 may be necessary to claim a credit under this section. The
3 director may also require the taxpayer to furnish information to
4 ascertain the validity of the claim for the tax credit made
5 under this section and may adopt rules necessary to effectuate
6 the purposes of this section pursuant to chapter 91."
7 SECTION 3. New statutory material is underscored.
8 SECTION 4. This Act, upon its approval, shall apply to
9 taxable years beginning after December 31, 2009.
10
11

INTRODUCED BY: _____

S.B. NO.

Report Title:
Tax Credit; Ohana Residential Housing; New Construction

Description:
Establishes a refundable ohana residential housing income tax credit for qualified taxpayers that purchase a qualified principal residence on or after April 1, 2010, and before January 1, 2012, that is payable to the qualified taxpayer in two equal installments over the immediately following two taxable years.

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

Appendix G

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

SECTION 1. The legislature finds that in this period of high economic turmoil, procedural changes are necessary to enable the State to achieve a quick recovery and to provide effective economic stimulation.

Senate Concurrent Resolution (SCR) 132 S.D. 1 (2009) established a Task Force to determine the economic contributions of the construction industry in Hawaii. As directed in the Concurrent Resolution, the Task Force has developed a series of proposals for state actions to preserve and create new jobs in the local construction industry. The intent of this measure is to implement one of the Task Force's proposals.

Accordingly, the purpose of this Act is to provide exemptions from statutes relating to procurement and rulemaking to allow the State to expedite the implementation or expansion of programs, services, and benefits that are instrumental to the economic success of the State. In doing so, however, it is the

1 purpose of this Act to strike a balance between expedited
2 procedures and necessary accountability and transparency.
3 SECTION 2. Chapter 103D-102, Hawaii Revised Statutes is
4 amended to read as follows:
5 "**§103D-102 Application of this chapter.** (a) This chapter
6 shall apply to all procurement contracts made by government
7 bodies whether the consideration for the contract is case,
8 revenues, realizations, receipts, or earnings, any of which the
9 State receives or is owed; in-kind benefits; or forbearance;
10 provided that nothing in this chapter or rules adopted hereunder
11 shall prevent any governmental body from complying with the
12 terms and conditions of any other grant, gift, bequest, or
13 cooperative agreement.
14 (b) Notwithstanding subsection (a), this chapter shall not
15 apply to contracts by governmental bodies:
16 (1) Solicited or entered into before July 1, 1994, unless the
17 parties agree to its application to a contract solicited
18 or entered into prior to July 1, 1994;
19 (2) To disburse funds, irrespective of their source:
20 (A) For grants or subsidies as those terms are defined in
21 section 42F-101, made by the State in accordance with
22 standards provided by law as required by article VII,

1 section 4, of the State Constitution; or by the
2 counties pursuant to their respective charters or
3 ordinances;
4 (B) To make payments to or on behalf of public officers
5 and employees for salaries, fringe benefits,
6 professional fees, or reimbursements;
7 (C) To satisfy obligations that the State is required to
8 pay by law, including paying fees, permanent
9 settlements, subsidies, or other claims, making
10 refunds, and returning funds held by the State as
11 trustee, custodian, or bailee;
12 (D) For entitlement programs, including public
13 assistance, unemployment, and workers' compensation
14 programs, established by state or federal law;
15 (E) For dues and fees of organizations of which the
16 State or its officers and employees are members,
17 including the National Association of Governors, the
18 National Association of State and County
19 Governments, and the Multi-State Tax Commission;
20 (F) For deposit, investment, or safekeeping, Including
21 expenses related to their deposit, investment or
22 safekeeping;

(G) To governmental bodies of the State;

(H) As loans, under loan programs administered by a governmental body; and

(I) For contracts awarded in accordance with chapter 103F;

(3) To procure goods, services or construction from a governmental body other than the University of Hawaii bookstores, from the federal government, or from another state or its political subdivision;

(4) To procure the following goods and services which are available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State:

(A) Services of expert witnesses for potential and actual litigation of legal matters involving the State, its agencies, and its officers and employees including administrative quasi-judicial proceedings;

(B) Works of art for museum or public display;

(C) Research and reference materials including books, maps, periodicals, and pamphlets, which are published in print, video, audio, magnetic, or electronic form;

(D) Meats and foodstuffs for the Kalaupapa settlement;

(E) Opponents for athletic contests;

(F) Utility services whose rates or prices are fixed by regulatory processes or agencies;

(G) Performances including entertainment, speeches, and cultural and artistic presentations;

(H) Goods and services for commercial resale by the State;

(I) Services of printers, rating agencies, support facilities, fiscal and paying agents, and registrars for the issuance and sale of the State's or counties' benefits;

(J) Services of attorneys employed or retained to advise, represent, or provide any other legal service to the State or any of its agencies on matters arising under laws of another state or foreign country, or in an action brought in another state, federal or foreign jurisdiction, when substantially all legal services are expected to be performed outside this State;

(K) Financing agreements under chapter 37D; and

(L) Any other goods or services which the policy board

1 determines by rules or the chief procurement officer
2 determines in writing is available from multiple
3 sources but for which procurement by competitive
4 means is either not practicable or not advantageous
5 to the State; and
6 (5) Which are specific procurements expressly exempt from any
7 or all of the requirements of this chapter by:
8 (A) References in state of federal law to provisions of
9 this chapter or a section of this chapter or
10 references to a particular requirement of this
11 chapter; and
12 (B) Trade agreements, including the Uruguay Round
13 General Agreement on Tariffs and Trade (GATT) which
14 require certain non-construction and non-software
15 development procurements by the comptroller to be
16 conducted in accordance with its terms.
17 (c) Notwithstanding subsection (a), this chapter shall not
18 apply to contracts made by any regional system board of
19 the Hawaii health systems corporation
20 (d) Governmental bodies making procurements which are exempt
21 from this chapter are nevertheless encouraged to adopt
22 and use provisions of this chapter and its implementing

rules are appropriate; provided that the use of one or more provisions shall not constitute a waiver of the exemptions conferred and subject the procurement or the governmental body to any other provision of this chapter.

(e) Notwithstanding any other statute relating to procurement or Hawaii administrative rule, any public notice relating to procurement contracts shall be publicized statewide in either written publication(s) or electronic formats throughout the state for a period that does not exceed 15 days."

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

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____

S.B. NO.

Report Title:
[**Click** here and type **Report Title** *(1 line limit)*]

Description:
[**Click** here and type **Description** *(5 line limit)*]

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

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

SECTION 1. The legislature finds that in this period of high economic turmoil, procedural changes are necessary to enable the State to achieve a quick recovery and to provide effective economic stimulation.

The Legislature further finds that Hawaii's public procurement process is inefficient and antiquated. Procedures require protracted periods of time between each procurement step. Currently, the awarding of a contract is subject to prolonged review, thereby preventing government projects from proceeding in a timely manner.

Senate Concurrent Resolution (SCR) 132 S.D. 1 (2009) established a Task Force to determine the economic contributions of the construction industry in Hawaii. As directed in the Concurrent Resolution, the Task Force has developed a series of proposals for state actions to preserve and create new jobs in the local construction industry. The intent of this measure is to implement one of the Task Force's proposals.

1 Accordingly, the purpose of this measure is to amend
2 chapter 103D, Hawaii Revised Statutes, to require all state
3 agencies to award public contracts on bid proposals within
4 thirty days of the bid opening date. In doing so, however, it
5 is the purpose of this Act to strike a balance between expedited
6 procedures and necessary accountability and transparency.
7 SECTION 2. Chapter 103D-102, Hawaii Revised Statutes is
8 amended to read as follows:
9 "**§103D-102 Application of this chapter.** (a) This chapter
10 shall apply to all procurement contracts made by government
11 bodies whether the consideration for the contract is case,
12 revenues, realizations, receipts, or earnings, any of which the
13 State receives or is owed; in-kind benefits; or forbearance;
14 provided that nothing in this chapter or rules adopted hereunder
15 shall prevent any governmental body from complying with the
16 terms and conditions of any other grant, gift, bequest, or
17 cooperative agreement.
18 (b) Notwithstanding subsection (a), this chapter shall not
19 apply to contracts by governmental bodies:
20 (1) Solicited or entered into before July 1, 1994, unless the
21 parties agree to its application to a contract solicited
22 or entered into prior to July 1, 1994;

1 (2) To disburse funds, irrespective of their source:
2 (A) For grants or subsidies as those terms are defined in
3 section 42F-101, made by the State in accordance with
4 standards provided by law as required by article VII,
5 section 4, of the State Constitution; or by the
6 counties pursuant to their respective charters or
7 ordinances;
8 (B) To make payments to or on behalf of public officers
9 and employees for salaries, fringe benefits,
10 professional fees, or reimbursements;
11 (C) To satisfy obligations that the State is required to
12 pay by law, including paying fees, permanent
13 settlements, subsidies, or other claims, making
14 refunds, and returning funds held by the State as
15 trustee, custodian, or bailee;
16 (D) For entitlement programs, including public
17 assistance, unemployment, and workers' compensation
18 programs, established by state or federal law;
19 (E) For dues and fees of organizations of which the
20 State or its officers and employees are members,
21 including the National Association of Governors, the
22 National Association of State and County

1 Governments, and the Multi-State Tax Commission;
2 (F) For deposit, investment, or safekeeping, Including
3 expenses related to their deposit, investment or
4 safekeeping;
5 (G) To governmental bodies of the State;
6 (H) As loans, under loan programs administered by a
7 governmental body; and
8 (I) For contracts awarded in accordance with chapter
9 103F.
10 (3) To procure goods, services or construction from a
11 governmental body other than the University of Hawaii
12 bookstores, from the federal government, or from another
13 state or its political subdivision;
14 (4) To procure the following goods and services which are
15 available from multiple sources but for which procurement
16 by competitive means is either not practicable or not
17 advantageous to the State:
18 (A) Services of expert witnesses for potential and
19 actual litigation of legal matters involving the
20 State, its agencies, and its officers and employees
21 including administrative quasi-judicial proceedings;
22 (B) Works of art for museum or public display;

(C) Research and reference materials including books, maps, periodicals, and pamphlets, which are published in print, video, audio, magnetic, or electronic form;

(D) Meats and foodstuffs for the Kalaupapa settlement;

(E) Opponents for athletic contests;

(F) Utility services whose rates or prices are fixed by regulatory processes or agencies;

(G) Performances including entertainment, speeches, and cultural and artistic presentations;

(H) Goods and services for commercial resale by the State;

(I) Services of printers, rating agencies, support facilities, fiscal and paying agents, and registrars for the issuance and sale of the State's or counties' benefits;

(J) Services of attorneys employed or retained to advise, represent, or provide any other legal service to the State or any of its agencies on matters arising under laws of another state or foreign country, or in an action brought in another state, federal or foreign jurisdiction, when

1 substantially all legal services are expected to be
2 performed outside this State;
3 (K) Financing agreements under chapter 37D; and
4 (L) Any other goods or services which the policy board
5 determines by rules or the chief procurement officer
6 determines in writing is available from multiple
7 sources but for which procurement by competitive
8 means is either not practicable or not advantageous
9 to the State; and
10 (5) Which are specific procurements expressly expressly
11 exempt from any or all of the requirements of this
12 chapter by:
13 (A) References in state of federal law to provisions of
14 this chapter or a section of this chapter or
15 references to a particular requirement of this
16 chapter; and
17 (B) Trade agreements, including the Uruguay Round
18 General Agreement on Tariffs and Trade (GATT) which
19 require certain non-construction and non-software
20 development procurements by the comptroller to be
21 conducted in accordance with its terms.
22 (c) Notwithstanding subsection (a), this chapter shall not

apply to contracts made by any regional system board of the Hawaii health systems corporation.

(d) Governmental bodies making procurements which are exempt from this chapter are nevertheless encouraged to adopt and use provisions of this chapter and its implementing rules are appropriate; provided that the use of one or more provisions shall not constitute a waiver of the exemptions conferred and subject the procurement or the governmental body to any other provision of this chapter.

(e) Notwithstanding any other statute relating to procurement or Hawaii administrative rule, contracts shall be awarded to projects of the Departments of Hawaiian Home Lands and the Department of Transportation, county boards of water supply, county departments of housing, planning and permitting and county departments of transportation within thirty days of the bid opening date."

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

SECTION 4. This Act shall take effect upon its approval.

S.B. NO.

INTRODUCED BY: _____

S.B. NO.

Report Title:
[**Click** here and type **Report Title** *(1 line limit)*]

Description:
[**Click** here and type **Description** *(5 line limit)*]

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

Appendix I

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

SECTION 1. The legislature finds that in this period of high economic turmoil, procedural changes are necessary to enable the State to achieve a quick recovery and to provide effective economic stimulation.

The legislature further finds that Hawaii's public procurement process is inefficient and antiquated. Procedures require protracted periods of time between each procurement step. Currently, the awarding of a contract is subject to prolonged review, thereby preventing government projects from proceeding in a timely manner. This legislature finds that this Act is necessary to promote and expedite construction projects that are subject to an overly long review schedule.

Senate Concurrent Resolution (SCR) 132 S.D. 1 (2009) established a Task Force to determine the economic contributions of the construction industry in Hawaii. As directed in the Concurrent Resolution, the Task Force has developed a series of proposals for state actions to preserve and create new jobs in

1 the local construction industry. The intent of this measure is
2 to implement one of the Task Force's proposals.
3 Accordingly, the purpose of this measure is to amend
4 chapter 103D, Hawaii Revised Statutes, to require all state
5 agencies to finalize contract certification with the Department
6 of Accounting and General Services within sixty days.
7 SECTION 2. Chapter 103D-102, Hawaii Revised Statutes is
8 amended to read as follows:
9 "**§103D-102 Application of this chapter.** (a) This chapter
10 shall apply to all procurement contracts made by government
11 bodies whether the consideration for the contract is case,
12 revenues, realizations, receipts, or earnings, any of which the
13 State receives or is owed; in-kind benefits; or forbearance;
14 provided that nothing in this chapter or rules adopted hereunder
15 shall prevent any governmental body from complying with the
16 terms and conditions of any other grant, gift, bequest, or
17 cooperative agreement.
18 (b) Notwithstanding subsection (a), this chapter shall not
19 apply to contracts by governmental bodies:
20 (1) Solicited or entered into before July 1, 1994, unless the
21 parties agree to its application to a contract solicited
22 or entered into prior to July 1, 1994;

1 (2) To disburse funds, irrespective of their source:
2 (A) For grants or subsidies as those terms are defined in
3 section 42F-101, made by the State in accordance with
4 standards provided by law as required by article VII,
5 section 4, of the State Constitution; or by the
6 counties pursuant to their respective charters or
7 ordinances;
8 (B) To make payments to or on behalf of public officers
9 and employees for salaries, fringe benefits,
10 professional fees, or reimbursements;
11 (C) To satisfy obligations that the State is required to
12 pay by law, including paying fees, permanent
13 settlements, subsidies, or other claims, making
14 refunds, and returning funds held by the State as
15 trustee, custodian, or bailee;
16 (D) For entitlement programs, including public
17 assistance, unemployment, and workers' compensation
18 programs, established by state or federal law;
19 (E) For dues and fees of organizations of which the
20 State or its officers and employees are members,
21 including the National Association of Governors, the
22 National Association of State and County

1 Governments, and the Multi-State Tax Commission;
2 (F) For deposit, investment, or safekeeping, Including
3 expenses related to their deposit, investment or
4 safekeeping;
5 (G) To governmental bodies of the State;
6 (H) As loans, under loan programs administered by a
7 governmental body; and
8 (I) For contracts awarded in accordance with chapter
9 103F.
10 (3) To procure goods, services or construction from a
11 governmental body other than the University of Hawaii
12 bookstores, from the federal government, or from another
13 state or its political subdivision;
14 (4) To procure the following goods and services which are
15 available from multiple sources but for which procurement
16 by competitive means is either not practicable or not
17 advantageous to the State:
18 (A) Services of expert witnesses for potential and
19 actual litigation of legal matters involving the
20 State, its agencies, and its officers and employees
21 including administrative quasi-judicial proceedings;
22 (B) Works of art for museum or public display;

(C) Research and reference materials including books, maps, periodicals, and pamphlets, which are published in print, video, audio, magnetic, or electronic form;

(D) Meats and foodstuffs for the Kalaupapa settlement;

(E) Opponents for athletic contests;

(F) Utility services whose rates or prices are fixed by regulatory processes or agencies;

(G) Performances including entertainment, speeches, and cultural and artistic presentations;

(H) Goods and services for commercial resale by the State;

(I) Services of printers, rating agencies, support facilities, fiscal and paying agents, and registrars for the issuance and sale of the State's or counties' benefits;

(J) Services of attorneys employed or retained to advise, represent, or provide any other legal service to the State or any of its agencies on matters arising under laws of another state or foreign country, or in an action brought in another state, federal or foreign jurisdiction, when

1 substantially all legal services are expected to be
2 performed outside this State;
3 (K) Financing agreements under chapter 37D; and
4 (L) Any other goods or services which the policy board
5 determines by rules or the chief procurement officer
6 determines in writing is available from multiple
7 sources but for which procurement by competitive
8 means is either not practicable or not advantageous
9 to the State; and
10 (5) Which are specific procurements expressly exempt from any
11 or all of the requirements of this chapter by:
12 (A) References in state of federal law to provisions of
13 this chapter or a section of this chapter or
14 references to a particular requirement of this
15 chapter; and
16 (B) Trade agreements, including the Uruguay Round
17 General Agreement on Tariffs and Trade (GATT) which
18 require certain non-construction and non-software
19 development procurements by the comptroller to be
20 conducted in accordance with its terms.
21 (c) Notwithstanding subsection (a), this chapter shall not
22 apply to contracts made by any regional system board of

the Hawaii health systems corporation

(d) Governmental bodies making procurements which are exempt from this chapter are nevertheless encouraged to adopt and use provisions of this chapter and its implementing rules are appropriate; provided that the use of one or more provisions shall not constitute a waiver of the exemptions conferred and subject the procurement or the governmental body to any other provision of this chapter.

(e) Notwithstanding any other statute relating to procurement or Hawaii administrative rule, all State agencies shall finalize and certify contracts with the department of accounting and general services within sixty days of a contract being awarded."

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

SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY: _____

S.B. NO.

Report Title:
[**Click** here and type **Report Title** *(1 line limit)*]

Description:
[**Click** here and type **Description** *(5 line limit)*]

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

Appendix J

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

SECTION 1. The legislature finds that in this period of high economic turmoil, procedural changes are necessary to provide the State the ability for quick recovery and successful economic stimulation.

The federal government has instituted an economic recovery program that is based on the abilities of state agencies to begin and complete construction projects. To facilitate the federal program, it is necessary for the State to make changes to its laws and programs that will allow state funded construction projects to move forward quickly and efficiently.

The legislature further finds that it is necessary to provide the Airports and Highways Division of the Department of Transportation with the same type of county exemptions from shoreline management area permits that is provided to the Department of Transportation Harbors Division.

The legislature also finds that this exemption is necessary to provide both the Airports and Highways Divisions to progress

with projects that are necessary to a projects' footprint and to contain escalating construction costs.

Senate Concurrent Resolution No. 132, S.D. 1 (2009) established a Task Force to determine the economic contributions of the construction industry in Hawaii. As directed in the Concurrent Resolution, the Task Force has developed a series of proposals for state actions to preserve and create new jobs in the local construction industry. The intent of this measure is to implement one of the Task Force's proposals.

The purpose of this legislation is to extend to the Airports and Highways Division of the Department of Transportation the same exemptions from County SMA permit requirements that are provided to the Harbors Division.

SECTION 2. Section 261-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Structures and improvements. [~~All~~] Notwithstanding any law or provision to the contrary, all structures and improvement to land, to be used for airport purses [~~, may~~]:

(1) May be planned, designed, and constructed by the department[~~.~~] without the approval of county agencies; and

(2) Shall be exempt from county agencies' special

1 management area permitting requirements."

2 SECTION 3. Section 205A-22, Hawaii Revised Statutes, is
3 amended by amending the definition of "development" to read:

4 "Development" means any of the uses, activities, or
5 operations on land or in or under water within a special
6 management area that are included below:

7 (1) Placement or erection of any solid material or any
8 gaseous, liquid, or solid, or thermal waste;

9 (2) Grading, removing, dredging, mining, or extraction of
10 any materials;

11 (3) Change in the density or intensity of use of land,
12 including but not limited to the division or
13 subdivision of land;

14 (4) Change in the intensity of use of water, ecology,
15 related thereto, or of access thereto; and

16 (5) Construction, reconstruction, demolition, or
17 alteration of the size of any structure.

18 "Development" does not include the following:

19 (1) Construction of a single-family residence that is not
20 part of a larger development;

21 (2) Repair or maintenance of roads and highways within
22 existing rights-of-way;

(3) Routine maintenance dredging of existing streams, channels, and drainage ways;

(4) Repair and maintenance of underground utility lines, including but not limited to water, sewer, power, and telephone and minor appurtenant structures such as pad mounted transformers and sewer pump stations;

(5) Zoning variances, except for height, density, parking, and shoreline setback;

(6) Repair, maintenance, or interior alterations to existing structures;

(7) Demolition or removal of structures, except those structures located on any historic site as designated in national or state registers;

(8) Use of any land for the purpose of cultivating, planting, growing and harvesting plants, crops, trees, and other agricultural, horticultural, or forestry products or animal husbandry, or aquaculture or mariculture of plants or animals, or other agricultural purposes;

(9) Transfer of title to land;

(10) Creation or termination of easements, covenants, or other right in structures or land;

(11) Subdivision of land into lots greater than twenty acres in size;

(12) Subdivision of a parcel of land into four or fewer parcels when o associated construction activities are proposed; provided that any land which is so subdivided shall not thereafter qualify for this exception with respect to any subsequent subdivision of any of the resulting parcels;

(13) Installation of underground utility lines and appurtenant aboveground fixtures less than four feet in height along existing corridors;

(14) Structural and nonstructural improvements to existing single-family residences, where otherwise permissible;

(15) Nonstructural improvements to existing commercial structures; [~~and~~]

(16) Construction, installation, maintenance, repair, and replacement of civil defense warning or signal devices and sirens; <u>and</u>

(17) <u>Construction of airports authorized by the department of transportation pursuant to section 261-4; and</u>

(18) <u>Construction of highways authorized by the department of transportation pursuant to section 264-7;</u>

provided that whenever the authority finds that any excluded use, activity, or operation may have a cumulative impact, or a significant environmental or ecological effect on a special management area, that use, activity or operation shall be defined as "development" for the purpose of this part."

SECTION 4. Section 264-7, Hawaii Revised Statutes, is amended to read as follows:

"§**264-7 Permits, fees, etc.** (a) Any person or government agency desiring the permit required by section 264-6 shall apply for a permit on a form prescribed by the director of transportation. Any permit issued shall be conditioned upon the adherence of the applicant to the section 264-8 and 265-9; provided that on awarding any contract for the construction, reconstruction, maintenance or repair of any state highway or federal-aid highway project, the director of transportation or the director's authorized representative shall ascertain whether the work to be done by the terms of that contract will require the contractor, the contractor's employees, or the contractor's agents to engage in any of the activities enumerated in section 264-6(1) and (2) and, if one or more such activities is likely to be required, shall issue the permit require by section 264-6, waiving the fee requirements imposed by subsection (b) of this

1 section.

2 (b) The director, subject to chapter 91, shall establish a
3 fee schedule for the issuance of the permit. The fee schedule
4 established shall be calculated to provide revenues sufficient
5 to defray any expenses the department of transportation may
6 incur in connection with the permit under sections 264-6 to 264-
7 12. An applicant for a permit shall pay the applicable fee,
8 provided that the director may waive the fee payable when the
9 director determines that the work to be done will either improve
10 the highway or otherwise be of benefit to the State; and
11 provided further that no fee shall be required where the only
12 work to be done is the setting of poles and guys to carry
13 overhead wires.

14 (c) Notwithstanding any law or provision to the contrary,
15 all structures and improvements to land to be used for state or
16 county highway purposes:

17 (A) May be planned, designed, and constructed by the
18 appropriate state or county department without the
19 approval of county agencies; and

20 (B) Shall be exempt from any county permitting
21 requirements

22 (C) Shall be exempt from any county agencies' special

1 management area permitting requirements."

2 SECTION 3. Statutory material to be repealed is bracketed

3 and stricken. New statutory material is underscored.

4 SECTION 4. This Act shall take effect upon its approval.

5

INTRODUCED BY: _____

S.B. NO.

Report Title:
[**Click** here and type **Report Title** *(1 line limit)*]

Description:
[**Click** here and type **Description** *(5 line limit)*]

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

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO BIOFUEL FACILITIES.

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

SECTION 1. In 2008, Hawaii imported 41.5 million barrels of crude oil at a cost and loss to the State's economy of approximately $4.1 billion. Unfortunately, well intended discussions and plans over many years have not been fruitful and the outflow of Hawaii's scarce dollars for off-shore fuel purchases continues unabated. It is time for meaningful action which can result in significant, near-term commercial production of biomass-based fuels in Hawaii.

Given Hawaii's growing energy and economic security needs, it is imperative that Hawaii begin in earnest to generate its own fuel from local feedstock production and biofuel conversion. Hawaii's climate and rich natural resources provide a solid foundation upon which this local industry can be built and successfully sustained. Advanced and second generation feedstocks including sugarcane, sweet sorghum, and algae hold tremendous potential to displace fossil fuel imports given their relatively low input requirements, exceptionally high yields,

and potential to produce a portfolio of products including liquid fuels, renewable power, feed, and other bio-based co-products through various bioconversion pathways.

Notwithstanding its great potential to reduce fossil fuel imports and stimulate the local economy, bio-based fuel production in Hawaii can only be realized through near term initial investments in feedstock production and bioconversion facilities. While the existing ethanol facility credit under section 235-110.3, Hawaii Revised Statutes, was created to provide such support, its current scope limits the State's ability to diversify its fuel mix and displace other imported fossil fuels upon which Hawaii is critically dependent, including but not limited to diesel and aviation fuel. For example, in 2008 alone, Hawaii consumed over $208.4 million gallons of highway and off-highway diesel at an average cost per gallon of $4.63, resulting in an approximate outflow of $965 million dollars based on statistics from the department of business, economic development, and tourism. The State consumed an additional 195 million gallons of aviation fuel at an average of $3.08 per gallon, for another $600.6 million in estimated

1 outflows over the same period.[1] Expanding production of bio-
2 based fuel capable of displacing both gasoline and diesel fuels
3 is imperative if Hawaii is to increase its energy security and
4 meet its stated renewable energy targets.
5 Hawaii's ability to secure the substantial capital required
6 for large-scale commercial facilities requires providing a
7 degree of assurance to private investors (banks, organizations
8 and individuals) that they will be able to recover their
9 investment within a reasonable time horizon. Extending the
10 current ethanol facility tax credit to incorporate biofuels more
11 broadly would help to attract a broader set of investors and
12 provide additional financial support needed to stimulate and
13 diversify Hawaii's renewable energy base.
14 Senate Concurrent Resolution No. 132, S.D. 1 (2009),
15 established a Task Force to determine the economic contributions
16 of the construction industry in Hawaii. As directed in the
17 Concurrent Resolution, the Task Force has developed a series of
18 proposals for state actions to preserve and create new jobs in
19 the local construction industry. The intent of this measure is
20 to implement one of the Task Force's proposals.

---

[1] Per gallon aviation fuel prices exclude taxes and are based on average PADD5 aviation fuel prices for 2008 as recorded by the US Energy Information Administration (EIA). http://tonto.eia.doe.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=A403650002&f=M. Volume consumption statistics are sourced from DBEDT.

This Act provides tax credit incentives designed to attract needed renewable fuel investment to the State, minimize capital investment requirements of production facilities, and retain billions of dollars in the State's economy. The incentive program would be self-sustaining as the additional business and income tax revenue generated by the industry would be applied to future tax credits. As such, the legislation directly ties the incentives to the local market, enables the removal of the current 40 million gallon production cap, and provides support to a range of advanced and more efficient production technologies.

The purpose of this Act is to enhance Hawaii's economic vitality through renewable energy resources that are self-sufficient, affordable, and produced locally.

SECTION 2. Section 235-110.3, Hawaii Revised Statutes, is amended to read as follows:

"**§235-110.3** [~~**Ethanol**~~] **<u>Biofuel</u> facility tax credit.** (a) Each year during the credit period, there shall be allowed to each taxpayer subject to the taxes imposed by this chapter, [~~an ethanol~~] <u>a biofuel</u> facility tax credit that shall be applied to the taxpayer's net income tax liability, if any, imposed by this

chapter for the taxable year in which the credit is properly claimed.

For each [~~qualified ethanol~~] qualifying biofuel production facility, the annual dollar amount of the [~~ethanol~~] biofuel facility tax credit during the eight-year period shall be equal to thirty per cent of its nameplate capacity [~~if the nameplate capacity is greater than five hundred thousand but less than~~] up to the first fifteen million gallons of production. A taxpayer may claim this credit for each qualifying [~~ethanol~~] biofuel production facility; provided that:

(1) The claim for this credit by any taxpayer of a qualifying [~~ethanol~~] biofuel production facility shall not exceed one hundred per cent of the total of all investments made by the taxpayer in the qualifying [~~ethanol~~] biofuel production facility during construction of the facility and the credit period;

(2) The qualifying [~~ethanol~~] biofuel production facility operated at a level of production of at least seventy-five per cent of its nameplate capacity on an annualized basis;

(3) The qualifying biofuel production facility shall be located within the State and use locally grown

feedstock for at least seventy-five per cent of its production output;

[~~(3)~~] (4) The qualifying [~~ethanol~~] biofuel production facility [~~is in~~] commences production on or after January 1, 2012, and before January 1, [~~2017;~~] 2020; and

[~~(4)~~] (5) No taxpayer that claims the credit under this section shall claim any other tax credit under this chapter for the same taxable year.

(b) As used in this section:

"Credit period" means a maximum period of eight years beginning from the first taxable year in which the qualifying [~~ethanol~~] biofuel production facility begins production even if actual production is not at seventy-five per cent of nameplate capacity.

"Investment" means a nonrefundable capital expenditure related to the development and construction of any qualifying [~~ethanol~~] biofuel production facility, including processing equipment, waste treatment systems, pipelines, and liquid storage tanks at the facility or remote locations, including expansions or modifications. Capital expenditures shall be those direct and certain indirect costs determined in accordance

with section 263A (with respect to capitalization and inclusion in inventory costs of certain expenses) of the Internal Revenue Code, relating to uniform capitalization costs, but shall not include expenses for compensation paid to officers of the taxpayer, pension and other related costs, rent for land, the costs of repairing and maintaining the equipment or facilities, inventory, training of operating personnel, utility costs during construction, property taxes, costs relating to negotiation of commercial agreements not related to development or construction, or service costs that can be identified specifically with a service department or function or that directly benefit or are incurred by reason of a service department or function. For the purposes of determining a capital expenditure under this section, the provisions of section 263A of the Internal Revenue Code shall apply as it read on March 1, 2004. For purposes of this section, investment excludes land costs and includes any investment for which the taxpayer is at risk, as that term is used in section 465 (with respect to deductions limited to amount at risk) of the Internal Revenue Code [~~(with respect to deductions limited to amount at risk)~~].

"Nameplate capacity" means the qualifying [~~ethanol~~] biofuel production facility's production design capacity, in gallons of [~~motor~~] fuel grade [~~ethanol~~] biofuel per year. Nameplate capacity shall be determined by the facility owner and shall not exceed the amount of production actually recorded during a consecutive seven-day period multiplied by fifty-two.

"Net income tax liability" means net income tax liability reduced by all other credits allowed under this chapter.

"Qualifying [~~ethanol~~] biofuel production" means ethanol, biodiesel, biobutanol, bio-based diesel, bio-based gasoline, or bio-based jet fuel produced from renewable, [~~organic~~] feedstocks, or waste materials, including fats, oils, grease, municipal solid waste. All qualifying production shall be fermented, distilled, gasified, or produced by physical chemical conversion methods such as reformation and catalytic cracking and dehydrated at the facility.

"Qualifying [~~ethanol~~] biofuel production facility" or "facility" means a facility located in Hawaii [~~which~~] that, if intended for transport vehicles, produces [~~motor~~] fuel grade [~~ethanol~~] biofuel meeting the minimum specifications by the American Society of Testing and Materials [~~standard D-4806,~~] standard D-4806 or D-6751, as amended.

(c) In the case of a taxable year in which the cumulative claims for the credit by the taxpayer of a qualifying [~~ethanol~~] biofuel production facility exceeds the cumulative investment made in the qualifying [~~ethanol~~] biofuel production facility by the taxpayer, only that portion that does not exceed the cumulative investment shall be claimed and allowed.

(d) The department of business, economic development, and tourism shall:

(1) Maintain records of the total amount of investment made by each taxpayer in a facility;

(2) Verify the amount of the qualifying investment;

(3) Total all qualifying and cumulative investments that the department of business, economic development, and tourism certifies; and

(4) Certify the total amount of the tax credit for each taxable year and the cumulative amount of the tax credit during the credit period.

Upon each determination, the department of business, economic development, and tourism shall issue a certificate to the taxpayer verifying the qualifying investment amounts, the credit amount certified for each taxable year, and the cumulative amount of the tax credit during the credit period.

The taxpayer shall file the certificate with the taxpayer's tax return with the department of taxation. Notwithstanding the department of business, economic development, and tourism's certification authority under this section, the director of taxation may audit and adjust certification to conform to the facts.

If in any year, the annual amount of certified credits reaches [~~$12,000,000~~] $20,000,000 in the aggregate, the department of business, economic development, and tourism shall immediately discontinue certifying credits and notify the department of taxation. In no instance shall the total amount of certified credits exceed [~~$12,000,000~~] $20,000,000 per year. Notwithstanding any other law to the contrary, this information shall be available for public inspection and dissemination under chapter 92F.

(e) If the credit under this section exceeds the taxpayer's income tax liability, the excess of credit over liability shall be refunded to the taxpayer; provided that no refunds or payments on account of the tax credit allowed by this section shall be made for amounts less than $1. All claims for a credit under this section [~~must~~] shall be properly filed on or before the end of the twelfth month following the close of the

taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(f) If a qualifying [~~ethanol~~] biofuel production facility or an interest therein is acquired by a taxpayer prior to the expiration of the credit period, the credit allowable under subsection (a) for any period after [~~such~~] the acquisition shall be equal to the credit that would have been allowable under subsection (a) to the prior taxpayer had the taxpayer not disposed of the interest. If an interest is disposed of during any year for which the credit is allowable under subsection (a), the credit shall be allowable between the parties on the basis of the number of days during the year the interest was held by each taxpayer. In no case shall the credit allowed under subsection (a) be allowed after the expiration of the credit period.

[~~(g) Once the total nameplate capacities of qualifying ethanol production facilities built within the State reaches or exceeds a level of forty million gallons per year, credits under this section shall not be allowed for new ethanol production facilities. If a new facility's production capacity would cause the statewide ethanol production capacity to exceed forty~~

1 ~~million gallons per year, only the ethanol production capacity~~
2 ~~that does not exceed the statewide forty million gallon per year~~
3 ~~level shall be eligible for the credit.~~]
4 [~~(h)~~] (g) Prior to construction of any new qualifying
5 [~~ethanol~~] biofuel production facility, the taxpayer shall
6 provide written notice of the taxpayer's intention to begin
7 construction of a qualifying [~~ethanol~~] biofuel production
8 facility. The information shall be provided to the department
9 of taxation and the department of business, economic
10 development, and tourism on forms provided by the department of
11 business, economic development, and tourism, and shall include
12 information on the taxpayer, facility location, facility
13 production capacity, anticipated production start date, and the
14 taxpayer's contact information. Notwithstanding any other law
15 to the contrary, this information shall be available for public
16 inspection and dissemination under chapter 92F.
17 [~~(i)~~] (h) The taxpayer shall provide written notice to the
18 director of taxation and the director of business, economic
19 development, and tourism within thirty days following the start
20 of production. The notice shall include the production start
21 date and expected [~~ethanol fuel~~] biofuel production for the next
22 twenty-four months. Notwithstanding any other law to the

contrary, this information shall be available for public inspection and dissemination under chapter 92F.

[~~(j)~~] (i) If a qualifying [~~ethanol~~] biofuel production facility fails to achieve an average annual production of at least seventy-five per cent of its nameplate capacity for two consecutive years, the stated capacity of that facility may be revised by the director of business, economic development, and tourism to reflect actual production for the purposes of determining [~~statewide production capacity under subsection (g) and~~] allowable credits for that facility under subsection (a). Notwithstanding any other law to the contrary, this information shall be available for public inspection and dissemination under chapter 92F.

[~~(k)~~] (j) Each calendar year during the credit period, the taxpayer shall provide information to the director of business, economic development, and tourism on the number of gallons of [~~ethanol~~] biofuel produced and sold during the previous calendar year, how much was sold in Hawaii versus overseas, percentage of Hawaii-grown feedstocks and other feedstocks used for [~~ethanol~~] biofuel production, the number of employees of the facility, and the projected number of gallons of [~~ethanol~~] biofuel production for the succeeding year.

[~~(l)~~] (k) In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for every qualifying [~~ethanol~~] biofuel production facility. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section 235-110.7(a).

[~~(m)~~] (l) Following each year in which a credit under this section has been claimed, the director of business, economic development, and tourism shall submit a written report to the governor and legislature regarding the production and sale of [~~ethanol~~] biofuel. The report shall include:

(1) The number, location, and nameplate capacities of qualifying [~~ethanol~~] biofuel production facilities in the State;

(2) The total number of gallons of [~~ethanol~~] biofuel produced and sold during the previous year; and

(3) The projected number of gallons of [~~ethanol~~] biofuel production for the succeeding year.

[~~(n)~~] (m) The director of taxation shall prepare forms that may be necessary to claim a credit under this section. Notwithstanding the department of business, economic development, and tourism's certification authority under this

1 section, the director may audit and adjust certification to
2 conform to the facts. The director may also require the
3 taxpayer to furnish information to ascertain the validity of the
4 claim for credit made under this section and may adopt rules
5 necessary to effectuate the purposes of this section pursuant to
6 chapter 91."
7 SECTION 3. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.
9 SECTION 4. This Act shall take effect on January 1, 2012.
10

INTRODUCED BY: _____

S.B. NO.

Report Title:
Biofuels Facility; Nameplate Capacity; Certified Credits

Description:
Expands the facility tax credit to include various biofuels, amends the definition of nameplate capacity, requires a qualifying facility to be located within the State and utilize locally grown feed stock for at least 75% of its production output, increases the amount of certified credits from $12 million to $20 million, removes the 40 million gallon production per year cap.

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

Appendix L

NOTE: The following draft bill includes language that implements the SCR 132 Task Force recommendations for amendment of HRS Chapter 201N. A bill to amend Chapter 201N would need to be re-formatted as an amendment to the existing Chapter 201N.

Report Title:
Renewable Energy

Description:
Establishes a renewable energy facility siting process to expedite the review and action upon state and county permits necessary for the siting, development, construction, and operation of a renewable energy facility.

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2008
STATE OF HAWAII

H.B. NO.

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

SECTION 1. Hawaii's over-dependency on imported fossil fuels threatens the health, safety and welfare of the people of Hawaii and our economic and environmental security and future. Hawaii's dependency on imported fossil fuels is the highest in the nation, accounting for approximately ninety percent of the state's energy needs, while Hawaii's residents and businesses are burdened with the highest fuel costs in the nation. This over-dependency on imported fossil fuels leaves Hawaii residents extremely vulnerable to events and factors that are not within

the control of this State or our residents, such as oil embargos, supply disruption, international market dysfunction and resulting cost increases. The impacts of constant increases in the cost of oil in recent history have underscored Hawaii's fossil fuel dependency and vulnerability and the related loss of control over the future of Hawaii's energy consumption and costs which pose immediate and long-term threats to the health, safety and welfare of Hawaii's residents.

Recognizing the vital importance of increasing Hawaii's energy self-sufficiency, the legislature has begun to take measures to address the issue, including:

- Over the past four years, the legislature and the department of business, economic development and tourism have committed to achieving dependable, efficient, and economical statewide energy systems, increased self-sufficiency, greater energy security, and reduction of greenhouse gas emissions.
- Act 272, Session Laws of Hawaii 2001, recognized the economic, environmental and fuel diversity benefits of renewable energy resources and the need to encourage the establishment of a market for renewable energy in Hawaii using the state's renewable energy resources.
- Act 240, Session Laws of Hawaii 2006, provided a framework for energy self-sufficiency.

- The State has mandated that twenty percent of electricity sold in Hawaii must be generated from renewable resources by the end of 2020, and has sought to encourage private sector development of renewable energy projects.

In light of the recognition of the critical need to immediately develop renewable energy projects to develop and utilize Hawaii's bountiful indigenous sources of renewable energy and reduce our over-dependency on imported fossil fuels, it is this legislature's obligation to the people of Hawaii to address duplicative and time consuming processes in order to encourage expeditious development of feasible renewable energy projects.

The legislature recognizes that private sector development of large scale projects must be encouraged and is necessary to meet the state mandate and goals for renewable energy. These renewable energy projects are often complex, large-scale undertakings requiring substantial investment and a substantial number of permits. The process for obtaining the necessary permits for renewable energy projects and developments and the process for meeting state, county, and federal regulations has for decades been described as overly time-consuming, cumbersome, onerous, and costly. The "Hawaii Integrated Energy Policy Report" of 1991 found that the permit and approval process required for the development and siting of energy facilities for

a single project can take up to seven years to complete. Thus, the inefficiency of the permitting and development process acts as a substantial barrier and impediment to meeting Hawaii's vital renewable energy needs and mandates by creating significant delays and adding costs, deterring investment and impacting the feasibility of the development and implementation of renewable energy projects.

Therefore, the legislature finds that there is a compelling state interest in encouraging and stimulating the immediate development of renewable energy projects to utilize Hawaii's indigenous renewable energy resources for the health, safety and welfare of the residents of Hawaii, and that to achieve this compelling state interest, it is necessary to establish an expedited and streamlined permitting process that creates a regulatory framework that is predictable, and in turn, encourages private investment in renewable energy projects and makes feasible the expeditious development of renewable energy projects in Hawaii by private companies.

SECTION 2. The purpose of this Act is to (1) establish an expedited renewable energy facility siting process for state and county permits necessary for the siting, development, construction, and operation of a renewable energy facility, (2) direct the state energy resources coordinator to implement and further the state policies and compelling state interest in

developing indigenous renewable energy resources and decreasing Hawaii's dependency on imported fossil fuels in furtherance of energy self-sufficiency, energy security and reduction of greenhouse gas emissions through coordination, concurrent approval processes, elimination of redundancy in the permitting process, clear and fair deadlines and other efficiencies in processes and procedures established pursuant to the authority given to the state energy resources coordinator in this Act and (3) give to the state energy resources coordinator the necessary power and authority to implement and further the state renewable energy policies and compelling interest in expediting the development of renewable energy facilities, while ensuring, and not circumventing, opportunity for public review and comment, preserving the environment and mitigating potential environmental and other impacts from renewable energy projects and protecting the public's health, safety and welfare consistent with the goals, purposes and policies of this Chapter.

SECTION 3. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

RENEWABLE ENERGY FACILITY SITING PROCESS

§ -1 Definitions. For the purpose of this chapter:

"Applicant" means any person or entity who submits an application to the energy resources coordinator for a permit or approval for a renewable energy facility.

"County agency" means a department, division, office, officer, agency, or other organization of a county government, including a county council.

"County law" means a county charter provision, ordinance, or administrative rule.

"County permit" means a permit that is subject to approval by a county agency pursuant to federal, state, or county law.

"Delegated environmental permit" means an air or water quality permit subject to issuance by the department of health under authority delegated by the United States Environmental Protection Agency.

"Energy resources coordinator" or "coordinator" means the energy resources coordinator as designated in section 196-3.

"Permit":

(1) Means any approval, no matter the nomenclature, necessary for the siting, development, construction, or operation of a renewable energy facility; except that the term shall not include:

(A) Acceptance by an accepting authority of an environmental impact statement on a facility;

(B) Issuance by a county agency of a building or grading permit; or

(C) Approval by the public utilities commission of a power purchase agreement between a renewable energy facility owner and a public utility; and

(2) Includes:

(A) A state land use reclassification;

(B) A county development, community, or community development plan amendment;

(C) A county zoning map amendment;

(D) A state conservation district use permit;

(E) A state special permit for an agricultural or rural district;

(F) A special management area permit;

(G) A shoreline setback variance;

(H) A grant of an easement on state or county real property; and

(I) Any other state or county permit or approval applicable and necessary for the siting, development, construction, or operation of a renewable energy facility, except as set forth in subsection (1) above.

"Power purchase agreement" means an agreement between a renewable energy facility owner and a public utility on the sale of electricity produced by the facility to the public utility.

"Renewable energy" has the same meaning as that term is defined under section 269-91.

"Renewable energy facility" or "facility" means a facility located in the State that is planned to have the capacity to produce from renewable energy at least two hundred megawatts of electricity. The term includes any of the following associated with the facility:

(1) The land parcel on which the facility is situated;

(2) Any renewable energy production structure or equipment;

(3) Any energy transmission line from the facility to a public utility's electricity distribution system;

(4) Any on-site infrastructure; and

(5) Any on-site building, structure, other improvement, or equipment necessary for the production of electricity or biofuel from the renewable energy site, transmission of the electricity or biofuel, or any accommodation for employees of the facility.

"State agency" means a department, division, office, officer, agency, or other organization of the state government, but not the legislature.

"State law" means a state constitutional provision, statute, or administrative rule.

"State permit" means a permit that is subject to the approval of a state agency pursuant to federal or state law; except that the term does not include a delegated environmental permit.

§ -2 Staff and contractor; energy resources coordinator for renewable energy facility siting process. (a) The energy resources coordinator may employ and dismiss staff without regard to chapters 76 and 89 to assist the coordinator in the implementation of this chapter. The salary of each staff member shall be set by the coordinator. Each staff member shall be entitled to participate in any public employee benefit program plan or privilege.

The coordinator may also contract persons to assist the coordinator in the implementation of this chapter. The coordinator's power to charge an applicant for reimbursement of staff costs and expenses shall be subject to the guidelines and limitations set forth in Section -4.

§ -3 General duties of the coordinator. The coordinator shall:

(1) Implement and further state policies and the compelling state interest in developing indigenous renewable energy resources and decreasing Hawaii's

dependency on imported fossil fuels in furtherance of energy self-sufficiency, energy security and reduction of greenhouse gas emissions through coordination, concurrent approval processes, elimination of redundancy in the permitting process, clear and fair deadlines and other efficiencies in processes and procedures established pursuant to the authority given to the coordinator in this Chapter. The coordinator shall have the power and authority, which shall be liberally construed, necessary to implement and further the state renewable energy policies, mandate and compelling interest in expediting the development of renewable energy facilities, while ensuring, and not circumventing, opportunity for public review and comment, mitigating potential environmental and other impacts from renewable energy projects and protecting the public's health, safety and welfare. In furtherance of this intent, the coordinator shall have the power and authority, as provided under this Chapter, to receive, accept, review, coordinate and approve all applications for Permits necessary for the development of a renewable energy facility on an expedited basis. The coordinator shall coordinate and process Permits concurrently, and shall take not

longer than six months following receipt of a completed consolidated application to complete the review and approval of any such application and all Permits relating thereto, subject only to final acceptance of an environmental assessment and/or environmental impact statement as may be required under Chapter 343.

(2) Receive and accept a consolidated application, in a form as the coordinator shall prescribe as required under Section -15, for the approval of the siting, development, construction, and operation of a renewable energy facility. Within ten days following receipt of an application or an amendment or supplement thereto, the coordinator shall give written notice to the applicant as to the coordinator's acceptance of the application, amendment or supplement, or as to any deficiencies relating thereto;

(3) Identify all state and county permits applicable and necessary for approval of the renewable energy facility;

(4) Gather from the applicant any information the coordinator finds relevant and necessary to review,

process, and make a decision on the permit application; and

(5) Work with other federal, state, and county agencies and the applicant to determine the terms and conditions of the permits that are necessary to effectuate this chapter while still protecting the public health, safety and welfare to the extent practicable without unduly delaying, impairing or frustrating the purposes, policies and goals of this chapter.

§ -4 Consolidated application; fee; pre-application conference; public notice of receipt of application. (a) The coordinator shall establish a consolidated application in accordance with Section -15 and require the applicant to pay a fee with the consolidated application. The coordinator shall establish the staffing for the consolidated application and set the fee at an amount mutually agreed upon by the applicant and the coordinator, but sufficient to cover not more than the reasonable, actual and direct costs and expenses of the coordinator, coordinator's staff and contractor, and relevant state and county agencies to provide input and advice on the state and county permits applicable and necessary for and directly related to the applicant's facility. Upon receipt of the fee or periodically thereafter, the coordinator shall

transmit to each relevant state or county agency the portion of the fee that reflects the cost to that state or county agency for providing its input, review and advice.

(b) Subject to the ten-day deadline set forth in Section -3(2) above, before accepting a consolidated application, the coordinator may hold a pre-application conference with the prospective applicant to discuss all the state and county permits necessary for the facility and notify the prospective applicant of the information that must be submitted with the consolidated application.

(c) Within ten days of receipt of a consolidated application, the coordinator shall publish a public notice of receipt of the application in a statewide publication. The public notice shall include:

(1) The name of the applicant;

(2) The location of the proposed renewable energy facility;

(3) A summarized description of the facility;

(4) The state and county permits required for the facility; and

(5) Any other information deemed necessary or appropriate by the coordinator and relevant to the proposed facility.

§ -5 **Approval of state permits.** (a) When the coordinator receives an application for a renewable energy facility that requires state permits, concurrently with the determinations and processes of the coordinator under Section 6(a) and the other sections of this Chapter and within the sixty days following receipt of a completed consolidated application, the coordinator, after consultation with relevant federal, state, and county agencies, shall determine the terms and conditions to be imposed on the state permits that are necessary to protect the public health, safety and welfare to the extent practicable without unduly delaying, impairing or frustrating the purposes, policies and goals of this chapter. The terms and conditions may require the applicant to improve off-site infrastructure or establish measures to mitigate significant adverse environmental effects, but only to the extent directly caused by the applicant's renewable energy facility.

The coordinator shall make the determination for all terms and conditions of all required state permits no later than sixty days after receipt of a completed consolidated application; provided that, if an approval for a federal permit or delegated environmental permit, or acceptance of an environmental assessment or environmental impact statement, is a prerequisite to the approval of a state permit required for the facility, the coordinator's determination shall be made, but its effectiveness

shall be conditioned upon approval of the federal permit, delegated environmental permit and/or acceptance of the environmental assessment or environmental impact statement, as applicable.

(b) Immediately upon determining the necessary terms and conditions under subsection (a), the coordinator, on behalf of the relevant state agencies, shall approve the state permits with those terms and conditions. The approval shall take effect on the sixty-first day after the coordinator's acceptance of a completed consolidated application; provided, however, that, if an approval for a federal permit or delegated environmental permit, or acceptance of an environmental assessment or environmental impact statement, is a prerequisite to the approval of a state permit required for the facility, the approval shall be conditioned upon and made effective one business day following the approval of the federal permit, delegated environmental permit and/or acceptance of the environmental assessment or environmental impact statement, as applicable. If a judicial proceeding has been timely initiated under section 343-7(c) regarding the acceptance of the statement, the state permits shall be subject to the order entered with the final judicial decision on the dispute. The coordinator may publish the coordinator's approval of all state permits in one consolidated document.

If a statement of finding is required by state law as a condition for approval of a state permit, the coordinator shall issue the statement to accompany the permit. For the purpose of this chapter, a statement of finding shall be deemed a "condition" of the state permit.

(c) Notwithstanding the approval of a state permit by the coordinator, the state agency on whose behalf the permit was approved shall be responsible for monitoring and enforcing the terms and conditions of the permit.

§ -6 Recommendation for approval of county permits; approval of county permits. (a) Within fifteen days following the coordinator's receipt of a completed an application for a renewable energy facility that requires county permits, and concurrently with the determination of the coordinator under Section 5(a) and the other sections of this Chapter, the coordinator, after consultation with relevant federal, state, and county agencies, shall determine the terms and conditions to be imposed on the county permits that are necessary to protect the public health, safety and welfare to the extent practicable without unduly delaying, impairing or frustrating the purposes, policies and goals of this chapter. The terms and conditions may require the applicant to improve off-site infrastructure or establish measures to mitigate significant adverse environmental

effects, but only to the extent directly caused by the applicant's renewable energy facility.

The coordinator shall make the determination for all county permits at the same time the determination is made for state permits under section -5(a).

(b) Immediately upon determining the necessary terms and conditions under subsection (a), the coordinator shall recommend to the relevant county agencies that they approve the county permits with those terms and conditions.

If a statement of findings is required by county law as a condition for approval of a particular county permit, the coordinator shall issue the statement to accompany the permit. For the purpose of this chapter, a statement of findings shall be deemed a "condition" of the county permit.

(c) Within forty-five days of receipt of the recommendation from the coordinator, each relevant county agency may approve the county permit under its jurisdiction with the terms and conditions recommended by the coordinator or amended by the county agency. The county agency may charge the applicant a reasonable fee for reviewing and acting on the permit, consistent with established county agency fees.

(d) If, within forty-five days of receipt of a recommendation from the coordinator, a county agency does not approve the county permit, either because of rejection or

inaction, the permit with the terms and conditions recommended by the coordinator shall be deemed approved on the forty-sixth day without necessity of further action by the county agency or coordinator.

(e) If, within the forty-five-day period following receipt of a recommendation from the coordinator, the county agency approves the county permit, but with amendments to any of the terms and conditions recommended by the coordinator, the county agency shall notify the coordinator within three days of the approval. If the notification is not provided to the coordinator within the three-day period, the county agency shall be deemed to have not approved the permit within the forty-five-day period, and the permit shall be deemed approved with the coordinator's recommended terms and conditions in accordance with subsection (d).

The coordinator shall have ten days after receipt of the notification from the county agency to determine whether to accept or reject the amended terms and conditions of the county permit. If the coordinator accepts all amended terms and conditions, the coordinator shall approve the county permit with the amended terms and conditions within said ten-day period. If the coordinator rejects all or some of the amended terms and conditions, the coordinator shall approve the county permit with terms and conditions that exclude the rejected amendments within

said ten-day period. The coordinator shall issue the decision in writing within said ten-day period. If the coordinator does not issue a written decision within the ten-day period, the coordinator shall be deemed to have rejected the county's amendments and the permit shall be deemed approved with the coordinator's recommended terms and conditions in accordance with subsection (d) on the eleventh day without necessity of further action by the county agency or coordinator.

(f) Notwithstanding the action by the coordinator on a county permit approved pursuant to this subsection, the relevant county agency shall be responsible for monitoring and enforcing the terms and conditions of the permit.

§ -7 Coordination with federal permits, delegated environmental permits and environmental impact review process. (a) Concurrently with the sixty-day period set forth in Section -5(a), the coordinator shall establish and implement a system to coordinate the approval of required federal permits with state and county permits for a renewable energy facility. The system shall include a process for coordinating the federal environmental impact statement process with the state environmental impact statement process, such that they run concurrently with each other and with the state and county permitting processes.

(b) The coordinator also shall establish and implement a system to coordinate and concurrently process the issuance of delegated environmental permits by the department of health with approval of state and county permits for a renewable energy facility.

(c) The coordinator may convene interagency working groups for the purpose of this section.

§ -8 Public hearing by coordinator. (a) If a federal, state, or county law requires a state or county agency to hold a public hearing on a permit application before making a decision on the permit, the coordinator shall hold the public hearing in place of the state or county agency within the sixty-day period set forth in Section -5(a). To the extent practicable, the coordinator shall consolidate public hearings to cover all permit applications and required public hearings.

(b) Nothing in this section shall prevent a county agency from voluntarily holding a public hearing on a county permit after the coordinator submits to the county agency a recommendation on that permit pursuant to section -6. If a county agency voluntarily holds a public hearing on a county permit, it shall do so within the forty-five-day period provided in Section 6(c) for review and action on the permit.

§ -9 Land use, zoning, building, and construction status of renewable energy facility; state and county permits. (a) A

renewable energy facility, all necessary state and county permits for which have been approved under this chapter, shall be deemed a permitted principal use on the land parcel upon which it is situated. The land use commission, department of land and natural resources, and the relevant county shall revise any state land use district map and county zoning map appropriately to reflect this status.

(b) The final plans and specifications of the renewable energy facility, as set forth in the relevant state and county permits approved pursuant to this chapter, shall be deemed to constitute the zoning, building, and construction standards for the facility and the land parcel upon which it is situated.

For the purpose of applicable state and county law:

(1) The facility shall be deemed a conforming use; and

(2) Any building or structure associated with or related to a facility shall be deemed a conforming building or structure which can be dedicated to the appropriate state or county agency.

(c) Nothing in this section shall be deemed to prohibit the amendment of the state land use classification, county zoning map, or other zoning, building, or construction standard with respect to facilities approved under this chapter. Any amendment, if made, shall be accomplished in accordance with applicable state or county law; except that no amendment shall

remove the conforming status conferred under subsection (b) with respect to any facility or any associated building or structure.

§ -10 Environmental impact review process; applicability. (a) Chapter 343 shall apply to any renewable energy facility, a consolidated application for which is submitted to the coordinator under this chapter.

(b) Nothing in this chapter or chapter 343 shall prohibit the review and processing by the coordinator of applications for permits for a renewable energy facility concurrently with the preparation and processing by the applicant of an environmental impact statement for the facility. To accomplish the concurrent review, the coordinator shall, at the applicant's request, consent to the receipt and review of portions of a draft of an environmental impact statement before its completion.

§ -11 Power purchase agreement not a state permit under this chapter; Coordination of efforts. A power purchase agreement between a renewable energy facility owner and a public utility shall not be a "permit" subject to approval by the coordinator. Any power purchase agreement shall be subject to the applicable provisions of chapter 269. However, the coordinator shall establish and implement a system to coordinate and concurrently process the review and approval by the public utilities commission of any power purchase agreement for electricity generated by a renewable energy facility. The

coordinator may convene an interagency working group for the purpose of this section.

§ -12 Building or grading permit required from county. A grading or building permit issued by the applicable county shall be required to grade a site or construct a structure for a renewable energy facility. The applicable county shall establish an expedited process for review and issuance of all required building or grading permits, which process shall not exceed ninety days, provided the applicant agrees to pay for a third party reviewer to review the grading or building permit application as provided hereinbelow. Under the process, the county may contract with a third party to conduct the review of the permit application and require the applicant for the permit to pay the cost incurred for the third party review.

§ -13 Judicial review of dispute regarding approved permit; inapplicability of contested case procedures. (a) Any person aggrieved by the approval of a state or county permit or term or condition of any approved permit may file an action for relief in the circuit court. Notwithstanding any other provision of this chapter to the contrary, for the purposes of bringing judicial action under this subsection, the term "person aggrieved" shall include the applicant and any state or county agency, office, council or other government entity which has

decision making authority related to the approved permit. Other parties, pursuant to court action, may be adjudged aggrieved.

(b) The inapplicability of the use of contested case procedures pursuant to chapter 91 in the approval of any state or county permit pursuant to this chapter shall not be grounds for any judicial appeal.

§ -14 Inapplicability of maximum time period rule requirement. Section 91-13.5 shall not apply to the coordinator. The deadlines for review and action upon a consolidated application for a renewable energy facility shall be subject to this chapter.

§ -15 Rules. (a) Within thirty days from the effective date of this chapter, the coordinator shall, after consultation with prospective applicants and related governmental agencies as the coordinator deems necessary or advisable, (1) adopt a consolidated application form which is consistent with the streamlining and concurrent agency approval processing goals of this chapter, and (2) adopt interim rules to implement this chapter without regard to the notice and public hearing requirements of section 91-3 or the small business impact review requirements of chapter 201M.

(b) Any amendment of the interim rules shall be subject to all provisions of chapters 91 and 201M.

§ -16 Superiority of chapter over conflicting state or county law. The provisions of this chapter shall supersede any conflicting state or county law."

SECTION 4. Section 91-1, Hawaii Revised Statutes, is amended by amending the definition of "contested case" to read as follows:

"(5) "Contested case" means a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for agency hearing. <u>The term does not apply to the review, processing, or approval of state or county permits for any renewable energy facility under chapter .</u>"

SECTION 5. Section 269-27.2, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The terms of a power purchase agreement, including the rate payable by the public utility to the producer for the nonfossil fuel generated electricity supplied to the public utility shall be as agreed between the public utility and the supplier and as approved by the public utilities commission; provided that in the event the public utility and the supplier fail to reach an agreement for a rate, the power purchase agreement and rate shall be as prescribed by the public

utilities commission according to the powers and procedures provided in this chapter.

In the exercise of its authority to determine the just and reasonable rate for the nonfossil fuel generated electricity supplied to the public utility by the producer, the commission shall establish that the rate for purchase of electricity by a public utility shall not be more than one hundred percent of the cost avoided by the utility when the utility purchases the electrical energy rather than producing the electrical energy.

The commission's determination of the just and reasonable rate shall be accomplished by establishing a methodology that removes or significantly reduces any linkage between the price of fossil fuels and the rate for the nonfossil fuel generated electricity to potentially enable utility customers to share in the benefits of fuel cost savings resulting from the use of nonfossil fuel generated electricity. As the commission deems appropriate, the just and reasonable rate for nonfossil fuel generated electricity supplied to the public utility by the producer may include mechanisms for reasonable and appropriate incremental adjustments, such as adjustments linked to consumer price indices for inflation or other acceptable adjustment mechanisms.

<u>When an application is submitted to the commission for the approval of a power purchase agreement or rate agreement for</u>

nonfossil fuel generated electricity between a renewable energy facility owner and a public utility under chapter , the commission shall approve, approve with modification, or reject the application within sixty days of receipt. The commissioner's approval or approval with modification shall not be unreasonably withheld or delayed. If the commission does not approve, approve with modification, or reject the proposed power purchase agreement or rate agreement within the sixty-day period, the power purchase agreement and rate agreement as submitted shall be deemed approved on the first day following the sixty-day period.

When a renewable energy facility owner and a public utility fail to reach an agreement on a power purchase agreement or rate payable for nonfossil fuel generated electricity, either party may request the commission to prescribe a just and reasonable rate or other agreement terms. The commission shall prescribe the rate and/or terms within sixty days of receipt of the request. If the commission does not prescribe the rate and/or terms within the sixty-day period, the rate or terms last proposed by the renewable energy facility owner shall be deemed the rate or terms prescribed. That rate or terms, as applicable, shall be effective on the first day after the first day following the sixty-day period.

For the purpose of this section, (1) the sixty-day period for commission determinations shall be subject to extension by the commission for reasonable cause and for a reasonable time as necessary, but in no event later than the six month deadline for processing of Permits by the energy resources coordinator referred to in Section 3 of Chapter , and (2) "renewable energy facility owner" means the owner or authorized agent of the owner of a renewable energy facility as defined in section -1."

SECTION 6. Section 343-2, Hawaii Revised Statutes, is amended by adding a new definition of "renewable energy facility" to be appropriately inserted and to read as follows:

""Renewable energy facility" has the same meaning as defined in section -1."

SECTION 7. Section 343-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Whenever an applicant proposes an action specified by subsection (a) that requires approval of an agency and that is not a specific type of action declared exempt under section 343-6, the agency initially receiving and agreeing to process the request for approval shall prepare an environmental assessment of the proposed action at the earliest practicable time to determine whether an environmental impact statement shall be required[~~.~~]; provided that, for an action that proposes the

establishment of a renewable energy facility, at the renewable energy facility applicant's written request, a draft environmental impact statement shall be prepared at the earliest practicable time without the need to first prepare an environmental assessment. The final approving agency for the request for approval is not required to be the accepting authority.

For environmental assessments for which a finding of no significant impact is anticipated:

(1) A draft environmental assessment shall be made available for public review and comment for a period of thirty days;

(2) The office shall inform the public of the availability of the draft environmental assessment for public review and comment pursuant to section 343-3;

(3) The applicant shall respond in writing to comments received during the review, and the agency shall prepare a final environmental assessment to determine whether an environmental impact statement shall be required. A statement shall be required if the agency finds that the proposed action may have a significant effect on the environment.

The agency shall file notice of the agency's determination with the office, which, in turn, shall

publish the agency's determination for the public's information pursuant to section 343-3.

The draft and final statements, if required, shall be prepared by the applicant, who shall file these statements with the office.

The draft statement shall be made available for public review and comment through the office for a period of forty-five days. The office shall inform the public of the availability of the draft statement for public review and comment pursuant to section 343-3.

The applicant shall respond in writing to comments received during the review and prepare a final statement. The office, when requested by the applicant or agency, may make a recommendation as to the acceptability of the final statement.

The authority to accept a final statement shall rest with the agency initially receiving and agreeing to process the request for approval. The final decision-making body or approving agency for the request for approval is not required to be the accepting authority. The planning department for the county in which the proposed action will occur shall be a permissible accepting authority for the final statement. <u>For a renewable energy facility, the energy resources coordinator under chapter shall be the accepting authority.</u>

Acceptance of a required final statement shall be a condition precedent to approval of the request and commencement of the proposed action. Upon acceptance or nonacceptance of the final statement, the agency shall file notice of such determination with the office. The office, in turn, shall publish the determination of acceptance or nonacceptance of the final statement pursuant to section 343-3.

The agency receiving the request, within thirty days of receipt of the final statement, shall notify the applicant and the office of the acceptance or nonacceptance of the final statement. The final statement shall be deemed to be accepted if the agency fails to accept or not accept the final statement within thirty days after receipt of the final statement; provided that the thirty-day period may be extended at the request of the applicant for a period not to exceed fifteen days.

In any acceptance or nonacceptance, the agency shall provide the applicant with the specific findings and reasons for its determination. An applicant, within sixty days after nonacceptance of a final statement by an agency, may appeal the nonacceptance to the environmental council, which, within thirty days of receipt of the appeal, shall notify the applicant of the council's determination. In any affirmation or reversal of an appealed nonacceptance, the council shall provide the applicant

and agency with specific findings and reasons for its determination. The agency shall abide by the council's decision."

SECTION 8. Chapter 196D, Hawaii Revised Statutes, is repealed.

SECTION 9. If a prospective developer of a renewable energy facility has submitted an application for a state or county permit necessary for the siting, development, construction, or operation of the facility before July 1, 2008, the prospective developer may:

(1) Request the relevant state or county agency to proceed with reviewing, processing, and acting upon the permit application; or

(2) Withdraw the permit application and submit a consolidated application to the energy resources coordinator pursuant to chapter , Hawaii Revised Statutes, in section 2 of this Act; provided that if the prospective developer chooses to submit a consolidated application, the relevant state or county agency shall transmit to the coordinator all documents applicable to the withdrawn permit application, except those that the agency finds are internal work products that may expose the agency to liability if released.

If the prospective developer has submitted two or more permit applications with state or county agencies before July 1, 2008, the prospective developer may select the action under paragraph (1) for some applications and the action under paragraph (2) for other applications.

A draft or final environmental impact statement under preparation by a prospective developer for a state or county permit application submitted before July 1, 2008 may be used for a consolidated application submitted to the coordinator. The prospective developer shall not be required to begin the environmental impact statement process anew if withdrawing the permit application and submitting a consolidated application.

SECTION 10. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2008-2009 for the establishment and operation of the renewable energy facility siting process established under this Act.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

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

SECTION 12. This Act shall take effect upon its approval; provided that section 10 shall take effect on July 1, 2008.

INTRODUCED BY: _____

Appendix M

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO PERMIT, LICENSE, AND APPROVAL APPLICATION PROCESSING.

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

Section 1. The legislature finds that the process of reviewing permits, licenses, and approvals for workforce housing and other projects submitted to the State and each county is long and often results in significant delays prior to the start of each project. The legislature envisions that the enactment of certain statutory provisions will help to streamline and enhance the efficiency of the permit and license review and approval process. For example, statutory provisions that establish a maximum time period for agencies to grant or deny related permits, licenses, and approvals, will expedite the start of construction for workforce housing projects throughout the State and will result in the generation of construction and other related jobs that are badly needed in the economy.

Senate Concurrent Resolution No. 132, S.D. 1 (2009), established a Task Force to determine the economic contributions of the construction industry in Hawaii. As directed in the Concurrent Resolution, the Task Force has developed a series of

1 proposals for state actions to preserve and create new jobs in
2 the local construction industry. The intent of this measure is
3 to implement one of the Task Force's proposals.
4 Accordingly, the purpose of this Act is to streamline
5 portions of the review process for permits, licenses, and
6 approvals to minimize time delays and to expedite the start of
7 construction for workforce housing and other projects which will
8 result in the generation of construction and other related jobs.
9 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
10 by adding a new section to be appropriately designated and to
11 read as follows:
12 "**§46- Third-party permit, license, and approval**
13 **processing review.** (a) Each county shall be authorized to
14 provide a third-party with permit, license, and approval
15 processing review powers that are aimed at increasing the
16 efficiency and timeliness of permit, license, or approval
17 applications submitted to the State or respective county.
18 Specifically, each county shall be authorized to contract
19 with licensed architects and engineers that are qualified by the
20 respective county to certify compliance with various building,
21 electrical, mechanical, plumbing, and structural codes, as well

1 as land use ordinances, in reviewing an application for a
2 permit, license, or approval.
3 (b) Third-party reviewers shall be retained by an owner of
4 the property being reviewed and all fees and costs for third-
5 party review services shall be the responsibility of the owner
6 of the property being reviewed.
7 (c) Third-party reviewers shall conduct their review
8 services for the purpose of certifying that the proposed plans
9 and specifications are in compliance with any applicable
10 federal, State, or county laws, rules, ordinances, and codes.
11 Certifications by third-party reviewers shall be limited to only
12 those areas approved by the State or respective county and those
13 areas in which the third-party reviewer is licensed.
14 (d) Third-party reviewers shall not have the authority to
15 grant any modifications, variances, waivers, exemptions, or
16 other discretionary approvals.
17 (e) An individual or entity that provides third-party
18 review services that are authorized and in accordance with this
19 section shall be immune from liability, except for acts of the
20 third-party reviewer that result from their intentional
21 misconduct, gross negligence, or malfeasance."

1 SECTION 3. Section 6E-42, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:
3 "(a) Before any agency or officer of the State or its
4 political subdivisions approves any project involving a permit,
5 license, certificate, land use change, subdivision, or other
6 entitlement for use, which may affect historic property,
7 aviation artifacts, or a burial site, the agency or office shall
8 advise the department and prior to any approval allow the
9 department an opportunity for review and comment on the effect
10 of the proposed project on historic properties, aviation
11 artifacts, or burial sites, consistent with section 6E-43,
12 including those listed in the Hawaii register of historic
13 places. The department shall have a maximum of forty-five days
14 to complete a review and comment on the effect of a proposed
15 project on historic properties, aviation artifacts, or burial
16 sites, consistent with section 6E-43, including those listed in
17 the Hawaii register of historic places, beginning from the time
18 the department is advised of the proposed project by an agency
19 or officer of the State or its political subdivision. If the
20 department fails to complete a review and comment on the effect
21 of a proposed project within forty-five days, then the proposed
22 project shall be deemed to be approved. Projects previously

1 reviewed by the department pursuant to this section and found to
2 have no impact on historic properties, aviation artifacts, or
3 burial sites shall not be subject to subsequent department
4 reviews."
5 SECTION 4. Section 91-13.5, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:
7 "(a) Unless otherwise provided by law, an agency shall
8 adopt rules that specify a maximum time period to grant or deny
9 a business or development-related permit, license, or approval;
10 provided that the application is not subject to state
11 administered permit programs delegated, authorized, or approved
12 under federal law. If an agency does not have a maximum time
13 period to grant or deny a permit, license, or approval adopted
14 by rule pursuant to this section, then the application for
15 permit, license, or approval shall be deemed approved thirty
16 calendar days after a completed application is submitted to the
17 State or respective county agency; provided that the completed
18 application is submitted to the State or respective county on or
19 after January 1, 2011."
20 SECTION 5. Section 91-13.5, Hawaii Revised Statutes, is
21 amended by amending subsections (f) and (g) to read as follows:
22 "(f) This section shall not apply to[~~:~~

1 ~~(1)~~ ~~Any~~] any proceedings of the public utilities
2 commission[~~; or~~
3 ~~(2)~~ ~~Any county or county agency that is exempted by county~~
4 ~~ordinance from this section~~].
5 (g) For purposes of this section, "application for a
6 business or development-related permit, license, or approval"
7 means any state or county application, petition, permit,
8 license, certificate, or any other form of a request for
9 approval required by law to be obtained prior to the formation,
10 operation, or expansion of a commercial or industrial
11 enterprise, or for any permit, license, certificate, or any form
12 of approval required under sections 46-4, 46-4.2, 46-4.5, 46-5,
13 and chapters 183C, 205, 205A, 340A, 340B, 340E, 340F, 342B,
14 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, and
15 342P[~~.~~], and shall include any permit, license, certificate, or
16 other form of approval for county land use, subdivision,
17 grading, grubbing, building, or plan approval."
18 SECTION 6. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.
20 SECTION 7. This Act shall take effect upon its approval.
21

INTRODUCED BY: _____

S.B. NO.

Report Title:
Permit Processing; Approvals; Maximum Time; Application

Description:
Establishes a maximum time period that an application for permit, license, or approval shall be deemed granted if not acted upon by the designated agency; authorizes each county to contract with a third-party reviewer to streamline the processing of applications; clarifies that previously approved projects that do not impact historic properties are not subject to subsequent reviews by the SHPD.

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

Appendix N

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO HOUSING.

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

SECTION 1. The legislature finds that the State and County of Honolulu affordable and workforce housing requirements often results in significant delays prior to the start of construction. In fact, some requirements are so onerous that in certain circumstances, the requirements prevent affordable and workforce housing from being built.

Senate Concurrent Resolution No. 132, S.D. 1 (2009) established a Task Force to determine the economic contributions of the construction industry in Hawaii. As directed in the Concurrent Resolution, the Task Force has developed a series of proposals for state actions to preserve and create new jobs in the local construction industry. The intent of this measure is to implement one of the Task Force's proposals.

Accordingly, the purpose of this Act is to provide temporary relief from county requirements to stimulate housing construction statewide.

SECTION 2. Section 46-15.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any law to the contrary notwithstanding, any county shall have and may exercise the same powers, subject to applicable limitations, as those granted the Hawaii housing finance and development corporation pursuant to chapter 201H insofar as those powers may be reasonably construed to be exercisable by a county for the purpose of developing, constructing, and providing low- and moderate-income housing; provided that:

(1) [~~no~~] No county shall be empowered to cause the State to issue general obligation bonds to finance a project pursuant to this section;

(2) [~~provided further that county~~] County projects shall be granted an exemption from general excise or receipts taxes in the same manner as projects of the Hawaii housing finance and development corporation pursuant to section 201H-36; [~~and~~]

(3) [~~provided further that section~~] Section 201H-16 shall not apply to this section unless federal guidelines specifically provide local governments with that

1 authorization and the authorization does not conflict
2 with any [~~state~~] State laws[~~.~~]; and
3 (4) The county affordable and workforce housing shall be
4 reduced by forty per cent.
5 The powers shall include the power, subject to applicable
6 limitations, to:
7 (1) Develop and construct dwelling units, alone or in
8 partnership with developers;
9 (2) Acquire necessary land by lease, purchase, exchange,
10 or eminent domain;
11 (3) Provide assistance and aid to a public agency or other
12 person in developing and constructing new housing and
13 rehabilitating existing housing for elders of low- and
14 moderate-income, other persons of low- and moderate-
15 income, and persons displaced by any governmental
16 action, by making long-term mortgage or interim
17 construction loans available;
18 (4) Contract with any eligible bidders to provide for
19 construction of urgently needed housing for persons of
20 low- and moderate-income;
21 (5) Guarantee the top twenty-five per cent of the
22 principal balance of real property mortgage loans,

1 plus interest thereon, made to qualified borrowers by
2 qualified lenders;
3 (6) Enter into mortgage guarantee agreements with
4 appropriate officials of any agency or instrumentality
5 of the United States to induce those officials to
6 commit to insure or to insure mortgages under the
7 National Housing Act, as amended;
8 (7) Make a direct loan to any qualified buyer for the
9 downpayment required by a private lender to be made by
10 the borrower as a condition of obtaining a loan from
11 the private lender in the purchase of residential
12 property;
13 (8) Provide funds for a share, not to exceed fifty per
14 cent, of the principal amount of a loan made to a
15 qualified borrower by a private lender who is unable
16 otherwise to lend the borrower sufficient funds at
17 reasonable rates in the purchase of residential
18 property; and
19 (9) Sell or lease completed dwelling units.
20 For purposes of this section, a limitation is applicable to
21 the extent that it may reasonably be construed to apply to a
22 county."

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

SECTION 4. This Act shall take effect upon its approval and shall be repealed on December 31, 2015, and section 46-15.1(a), Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the approval of this Act.

INTRODUCED BY: _____

S.B. NO.

Report Title:
[**Click** here and type **Report Title** *(1 line limit)*]

Description:
[**Click** here and type **Description** *(5 line limit)*]

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