



GOV. MSG. NO. 658

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

May 6, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 1260 SD1 HD1

On May 5, 2009, Senate Bill No. 1260, entitled "A Bill for an Act Relating to Air Pollution Fees" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to eliminate the cap on air pollution fees for covered air pollution sources permitted under the federal Clean Water Act. The federal government allowed states to set caps in recognition of the impact high fees would have on the users of electricity. Currently, Section 342B-29, Hawaii Revised Statutes, allows the Department of Health to assess fees for the first 4,000 tons of air pollutants from a covered air pollution source. This legislation would remove the cap which will result in an increase in fees for certain entities, most notably larger power plants.

At most times and in most places in Hawaii, we enjoy some of the best air quality in the nation. This is reaffirmed through the fact that the State meets the federal Environmental Protection Agency's air pollution attainment standards. The Department of Health works diligently to regulate and monitor air pollution sources and has the authority to assess fees to support programs to improve our air quality statewide.

While enactment of this bill may provide an incentive for certain large power plants to reduce their emissions, we must be mindful of the fact that any increase in fees will almost certainly be passed on to the consumer through higher electric utility rates. This bill attempts to address renewable energy goals through punitive measures that adversely impact our residents rather than through the positive, proactive approaches my Administration has implemented through our Hawaii Clean Energy Initiative. In these difficult economic times, we cannot continue to operate government programs and services by burdening consumers with higher taxes and fees.

The Honorable Colleen Hanabusa, President
and Members of the Senate

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For the foregoing reasons, I allowed Senate Bill No. 1260 to become law as Act 42,
effective May 5, 2009, without my signature.

Sincerely,



LINDA LINGLE

A BILL FOR AN ACT

RELATING TO AIR POLLUTION FEES.

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

1 SECTION 1. The legislature finds that financial incentives
2 must be aligned with policies that establish societal and
3 sustainability goals. The legislature further finds, however,
4 that a loophole exists in Hawaii's air pollution control laws,
5 and that this loophole inadvertently acts as a disincentive to
6 reducing pollution from larger pollution sources.

7 Under section 342B-29, Hawaii Revised Statutes, covered
8 source permit holders must pay fees per ton of regulated air
9 pollutant emitted annually. These fees fund the clean air
10 branch of the department of health and other programs. Covered
11 source permit holders, however, are not assessed fees for
12 pollution above four thousand tons. The legislature finds that
13 this feature of the law is inequitable for covered source permit
14 holders that emit fewer than four thousand tons, and it is a
15 disincentive to large polluters to reduce pollution that exceeds
16 four thousand tons annually.



1 The purpose of this Act is to eliminate a disincentive to
2 pollution reduction by removing the cap on fees for air
3 pollutant emissions.

4 SECTION 2. Section 342B-29, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

6 "(c) Fees for covered sources shall be based on the number
7 of tons of regulated air pollutant, excluding carbon monoxide,
8 allowed or emitted by the permitted source and shall not be less
9 than \$25 per ton per year. [~~A covered source shall not be
10 assessed for emissions of a regulated air pollutant in excess of
11 four thousand tons per year.] "~~

12 SECTION 3. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun, before its effective date.

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken.

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

APPROVED this day of , 2009

GOVERNOR OF THE STATE OF HAWAII