



GOV. MSG. NO. 770

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 25, 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:

This is to inform you that on June 25, 2009, the following bill was signed into law:

SB868 SD2 HD2 CD1

A BILL FOR AN ACT
RELATING TO ENERGY RESOURCES.
ACT 153 (09)

Sincerely,



LINDA LINGLE

Approved by the Governor

on JUN 25 2009

ACT 153

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

S.B. NO. 868
S.D. 2
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

1 SECTION 1. The legislature finds that there is a need to
2 coordinate the development of the State's energy resources to
3 preserve energy security by increasing the use of indigenous
4 renewable energy and reducing the State's overdependence on oil.
5 The legislature also finds that energy data and analysis are
6 essential to energy planning, policy development, and energy
7 emergency preparedness and response. In recent years, energy
8 markets, resources, systems and technologies, the variety and
9 types of fuels, environmental standards and specifications of
10 fuels, and policies related to energy and fuels have all
11 undergone dramatic changes. Current and future transitional
12 trends are expected to continue to influence Hawaii's energy
13 situation. These events reveal a critical need to develop the
14 State's technical and analytic capabilities and understanding of
15 Hawaii's energy resources, markets, and systems for effective
16 energy planning to achieve energy independence and increase the
17 State's energy security.



1 The legislature also finds that the director of business,
2 economic development, and tourism, who serves as the state
3 energy resources coordinator pursuant to section 196-3, Hawaii
4 Revised Statutes, is responsible for coordinating the
5 development of the State's energy resources, policies, programs,
6 and plans.

7 The energy data and analytic functions of the state energy
8 resources coordinator are statutorily distinct from, and not
9 redundant to other agencies' functions. The public utilities
10 commission, for example, functions as a state watchdog, focusing
11 primarily on monitoring petroleum prices and industry profits.

12 The legislature, in Act 182, Session Laws of Hawaii 2007,
13 explicitly acknowledged the difference between the department of
14 business, economic development, and tourism's energy analysis
15 role and the public utilities commission's role to conduct
16 analysis with a focus on petroleum prices and petroleum industry
17 profits. The statute directed the department of business,
18 economic development, and tourism to use this data to effectuate
19 the purposes of chapters 125C and 196, Hawaii Revised Statutes,
20 and other relevant laws. The legislature recognized that the
21 use and analysis of energy and fuels data remains critical to
22 virtually all of the department of business, economic



1 development, and tourism's statutory energy program functional
2 requirements.

3 It is essential and appropriate to include within chapter
4 196, Hawaii Revised Statutes, that the department of business,
5 economic development, and tourism shall be responsible for
6 developing and ensuring the achievement of the State's energy
7 policies, programs, and plans.

8 Therefore, the legislature finds that it is necessary to
9 amend chapter 196, Hawaii Revised Statutes, to:

- 10 (1) Update certain definitions for clarity, taking into
11 account the changes in the State's energy resources,
12 markets, and systems;
- 13 (2) Establish definitive policy guidance needed on the
14 nature and relationship of energy data analyses to the
15 State's energy program, and to clearly delineate
16 distinctive analytic roles and responsibilities of
17 state agencies conducting energy data functions; and
- 18 (3) Provide the statutory basis for a systematic state
19 energy analytic capacity and capability, which is
20 essential to support the energy resources
21 coordinator's role.



1 SECTION 2. Section 196-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§196-1 Findings and declaration of necessity. The
4 legislature finds that:

5 (1) The global demand for petroleum and its derivatives
6 has resulted in a significant and fundamental market
7 escalation in oil prices, has caused severe economic
8 hardships throughout the [State] state, and threatens
9 to impair the public health, safety, and welfare.

10 The State of Hawaii, with its near total
11 dependence on imported fossil fuel, is particularly
12 vulnerable to dislocations in the global energy
13 market. This [~~is an anomalous~~] situation[7] can be
14 changed, as there are few places in the world so
15 generously endowed with natural energy: geothermal,
16 solar radiation, ocean temperature differential, wind,
17 biomass, waves, and currents[—], which are all
18 potential non-polluting power sources;

19 (2) There is a real need for comprehensive strategic
20 [~~comprehensive~~] planning in the effort towards
21 achieving full [~~utilization~~] use of Hawaii's energy
22 [~~resource programs~~] resources and the most effective



1 allocation of energy resources throughout the [~~State~~]
2 state. Planning is necessary and desirable in order
3 that the State may recognize and declare the major
4 problems and opportunities in the field of energy
5 resources. Both short-range and long-range planning
6 will permit the articulation of:

- 7 (A) Broad policies, goals, and objectives;
8 (B) Criteria for measuring and evaluating
9 accomplishments of objectives;
10 (C) Identification and implementation of programs
11 that will carry out such objectives; and
12 (D) A determination of requirements necessary for the
13 optimum development of Hawaii's energy resources.

14 Such planning efforts will identify present conditions
15 and major problems relating to energy resources, their
16 exploration, development, production, and
17 distribution. It will show the projected nature of
18 the situation and rate of change [~~and~~], present
19 conditions for the foreseeable future based on a
20 projection of current trends in the development of
21 energy resources in Hawaii[~~7~~], and include initiatives
22 designed to fundamentally change how Hawaii consumes



1 energy by accelerating the production of renewable and
2 alternative energy, increasing energy efficiency,
3 developing and adopting new technologies, and ensuring
4 the State's energy security;

5 (3) The State requires an in-depth understanding of the
6 causes and effects of any transitional issues and
7 trends related to changes in the State's energy
8 resources, systems, and markets;

9 ~~(3)~~ (4) There are many agencies of the federal, state,
10 and county governments in Hawaii, as well as many
11 private agencies~~[]~~ and a broad set of non-
12 governmental entities, engaged in, or expressing an
13 interest in, various aspects of the exploration,
14 research, distribution, transportation, storage,
15 conservation, and production of all forms of energy
16 resources in Hawaii. Some of these agencies include
17 the University of Hawaii~~[]~~; the department of land
18 and natural resources~~[]~~; the department of business,
19 economic development, and tourism~~[]~~; the division of
20 consumer advocacy~~[]~~; the public utilities commission;
21 the state civil defense agency; the federal energy
22 office~~[]~~; and various county agencies, as well as



1 ~~[the oil companies, gas stations, and other private~~
2 ~~enterprises,]~~ Hawaii's energy and energy-related
3 companies; and

4 [(4)] (5) There is ~~[immediate]~~ an ongoing need in this
5 state to coordinate the efforts of [all these
6 agencies,] statewide industry and government energy
7 interests; maintain the technical capability and
8 adequate capacity to quantitatively and qualitatively
9 evaluate, analyze, develop, and coordinate
10 implementation of private and public sector energy
11 planning efforts; recommend market-based policies to
12 develop Hawaii's energy resources, systems, and
13 markets; establish and coordinate programs to preserve
14 and protect the State's energy security, maintain a
15 robust energy emergency preparedness program, and
16 effectuate the conservation of [fuel,] energy
17 resources to provide for the equitable distribution
18 thereof[,]; and to formulate plans for the development
19 and use of alternative energy sources. There is a
20 need for [such] coordination, capability, and
21 capacity, so that there will be maximum conservation



1 and [utilization] use of energy resources in the
2 [~~State.]~~ state."

3 SECTION 3. Section 196-2, Hawaii Revised Statutes, is
4 amended as follows:

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

7 "Commission" means the public utilities commission.

8 "Distributor" means:

9 (1) Every person who refines, manufactures, produces, or
10 compounds fuel in the state and sells it at wholesale
11 or retail, or who uses it directly in the manufacture
12 of products or for the generation of power;

13 (2) Every person who imports or causes to be imported into
14 the state, or exports or causes to be exported from
15 the state, any fuel;

16 (3) Every person who acquires fuel through exchanges with
17 another distributor; and

18 (4) Every person who purchases fuel for resale at
19 wholesale or retail rates from any person described in
20 paragraph (1), (2), or (3).

21 "Electricity" means all electrical energy produced by
22 combustion of any fuel, or generated or produced using wind, the



1 sun, geothermal heat, ocean water, falling water, currents, and
2 waves, or any other source.

3 "Energy" means work or heat that is, or may be, produced
4 from any fuel or source whatsoever.

5 "Fuel" means fuels, whether liquid, solid, or gaseous,
6 commercially usable for energy needs, power generation, and
7 fuels manufacture, that may be manufactured, grown, produced, or
8 imported into the state or that may be exported therefrom,
9 including petroleum and petroleum products and gases to include
10 all fossil fuel-based gases, coal tar, vegetable ferments,
11 biomass, municipal solid waste, biofuels, hydrogen, agricultural
12 products used as fuels and as feedstock to produce fuels, and
13 all fuel alcohols."

14 2. By amending the definition of "energy resources" to
15 read:

16 "Energy resources" means ~~[and includes fossil fuel,~~
17 ~~nuclear, geothermal, solar, hydropower, wind, and other means of~~
18 ~~generating energy.] fuel, and also includes all electrical or~~
19 ~~thermal energy produced by combustion of any fuel, or generated~~
20 ~~or produced using wind, the sun, geothermal heat, ocean water,~~
21 ~~falling water, currents, waves, or any other source."~~



1 SECTION 4. Section 196-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§196-4 Powers and duties. Subject to the approval of the
4 governor, the coordinator shall:

5 (1) Formulate plans, including objectives, criteria to
6 measure accomplishment of objectives, programs through
7 which the objectives are to be attained, and financial
8 requirements for the optimum development of Hawaii's
9 energy resources;

10 (2) Conduct systematic analysis of existing and proposed
11 energy resource programs, evaluate the analysis
12 conducted by government agencies and other
13 organizations and recommend to the governor and to the
14 legislature programs [~~which~~] that represent the most
15 effective allocation of resources for the development
16 of energy [~~sources,~~] resources;

17 (3) Formulate and recommend specific proposals, as
18 necessary, for conserving energy [~~and fuel,~~]
19 resources, including the allocation and distribution
20 thereof, to the governor and to the legislature;

21 (4) Assist public and private agencies in implementing
22 energy conservation and related measures;



- 1 (5) Coordinate the State's energy conservation and
2 allocation programs with that of the federal
3 government, other state governments, governments of
4 nations with interest in common energy resources, and
5 the political subdivisions of the State;
- 6 (6) Develop programs to encourage private and public
7 exploration and research of alternative energy
8 resources [~~which~~] that will benefit the [~~State,~~]
9 state;
- 10 (7) Conduct public education programs to inform the public
11 of the energy resources situation, as it may exist,
12 from time to time and of the government actions taken
13 [~~thereto~~];
- 14 (8) Serve as consultant to the governor, public agencies,
15 and private industry on matters related to the
16 acquisition, [~~utilization~~] use, and conservation of
17 energy resources;
- 18 (9) Contract for services when required for the
19 implementation of this chapter;
- 20 (10) Review proposed state actions [~~which~~] that the
21 coordinator finds to have significant effect on energy
22 [~~consumption~~] resources and report to the governor



1 their effect on the energy conservation program, and
2 perform such other services as may be required by the
3 governor and the legislature;

4 (11) Prepare and submit an annual report and [~~such~~] other
5 reports as may be requested to the governor and to the
6 legislature on the implementation of this chapter and
7 all matters related to energy resources; [~~and~~]

8 (12) Adopt rules for the administration of this chapter
9 pursuant to chapter 91[~~7~~]; provided that the rules
10 shall be submitted to the legislature for review[~~-~~];
11 and

12 (13) Develop and maintain a comprehensive and systematic
13 quantitative and qualitative capacity to analyze the
14 status of energy resources, systems, and markets, both
15 in-state and those to which Hawaii is directly tied,
16 particularly in relation to the State's economy, and
17 to recommend, develop proposals for, and assess the
18 effectiveness of policy and regulatory decisions, and
19 conduct energy emergency planning."

20 SECTION 5. Section 196-6, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " ~~[§]~~196-6 ~~[§]~~ Energy efficient storage hot water heaters.

2 (a) No new storage hot water heater which is not certified as
3 meeting the energy efficiency standards of the American Society
4 of Heating, Refrigerating and Air Conditioning Engineers, Inc.,
5 as set forth as the current ASHRAE 90 Standard, shall be sold or
6 installed in the ~~[State]~~ state after June 1, 1985; provided,
7 however, that nothing contained herein shall prevent sales from
8 being made in the ~~[State]~~ state for use outside the ~~[State.]~~
9 state. ~~[Upon May 18, 1984, no retail seller or distributor~~
10 ~~shall increase their inventory of storage hot water heaters~~
11 ~~which are not certified as being in compliance with the current~~
12 ~~ASHRAE 90 Standard, and all storage hot water heaters sold after~~
13 ~~June 1, 1985, shall be certified by the manufacturer, or the~~
14 ~~retailer, or both, as being in compliance with the current~~
15 ~~ASHRAE 90 Standard.~~

16 ~~(b) Within ninety days after May 18, 1984, the energy~~
17 ~~resources coordinator or its successor entity shall notify, in~~
18 ~~writing, all retail sellers and distributors of storage hot~~
19 ~~water heaters doing business in this State, of the provisions of~~
20 ~~this section.~~

21 ~~(e) Any]~~ (b) Any violation of subsection (a) shall be a
22 misdemeanor; provided a fine of not less than \$50 nor more than



1 \$500 shall be imposed, and all fines shall be imposed
2 consecutively. Each storage hot water heater sold in violation
3 of this section shall constitute a separate offense."

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

6 SECTION 7. This Act shall take effect on July 1, 2009.



1 \$500 shall be imposed, and all fines shall be imposed
2 consecutively. Each storage hot water heater sold in violation
3 of this section shall constitute a separate offense."

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5 and stricken. New statutory material is underscored.

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APPROVED this 25 day of JUN, 2009



GOVERNOR OF THE STATE OF HAWAII