



GOV. MSG. NO. 856

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 16, 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: House Bill No. 591 HD1 SD2

On July 15, 2009, House Bill No. 591, entitled "A Bill for an Act Relating to Public Utilities" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to allow the Public Utilities Commission to establish preferential rates for renewable energy produced in conjunction with agricultural activities.

This measure is intended to provide an incentive to both agricultural and renewable energy producers by providing better rates to agricultural energy producers selling electricity to utilities. While the Lingle-Aiona Administration supports local agricultural production and the goal to increase renewable energy, this bill could result in shifting of the costs of electricity onto consumers to compensate for the preferential rates given to agricultural operations. I am concerned that this cost shifting could adversely impact the bulk of electrical users in the State.

Moreover, the phrase "renewable energy produced in conjunction with agricultural activities" lacks clarity as to what constitutes a sufficient relationship between energy production and agricultural activities. It would be unfortunate if non-agricultural producers are able to take advantage of the vague wording in this measure to establish preferential rates intended to support agricultural operations.

For the foregoing reasons, I allowed House Bill No. 591 to become law as Act 185, effective July 15, 2009, without my signature.

Sincerely,

LINDA LINGLE

ACT 185

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

H.B. NO. 591
H.D. 1
S.D. 2

A BILL FOR AN ACT

RELATING TO PUBLIC UTILITIES.

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

1 SECTION 1. The legislature finds that public utilities in
2 Hawaii are required to meet renewable portfolio standards.
3 These standards require twenty per cent of each electric
4 utility's sales to come from renewable energy by 2020. The
5 Hawaii Clean Energy Initiative proposes to increase this
6 renewable energy requirement to forty per cent by 2030.
7 Additionally, the Hawaii Constitution identifies increased
8 agricultural self-sufficiency as being in the public interest.

9 The legislature also finds that renewable energy creates
10 the maximum benefit to the State when it is locally produced.
11 Renewable energy sources that complement the production of
12 agricultural products are especially desirable. These sources
13 provide for food and fiber self-sufficiency while also providing
14 electricity. It is in the interest of the State to encourage
15 the synergy between agricultural production and renewable energy
16 production.

17 The legislature finds that renewable energy produced in
18 conjunction with agricultural activities may include, but is not

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1 limited to, energy generated or produced by a farming operation
2 as defined in section 165-2, Hawaii Revised Statutes, primarily
3 using biomass, hydropower, or other non-fossil fuel sources
4 where a portion of the energy produced is used as the primary
5 power source for the farming operation.

6 The legislature further finds that preferential rates for
7 electrical energy produced in conjunction with agricultural
8 activities, including compensation to agricultural energy
9 producers for their costs and a reasonable return on investment,
10 will support the long-term viability of renewable energy
11 produced by agricultural producers. The legislature concludes
12 that this will serve two policy goals of the State:

- 13 (1) Increased energy self sufficiency; and
14 (2) Increased agricultural sustainability.

15 The purpose of this Act is to authorize and encourage the
16 establishment of preferential rates for renewable energy
17 produced in conjunction with agricultural activities.

18 SECTION 2. Chapter 269, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:

21 "§269- Preferential renewable energy rates; agricultural
22 activities. It is the policy of the State to promote the long-

1 term viability of agriculture by establishing mechanisms that
2 provide for preferential rates for the purchase of renewable
3 energy produced in conjunction with agricultural activities.
4 The public utilities commission shall have the authority to
5 establish preferential rates for the purchase of renewable
6 energy produced in conjunction with agricultural activities.

7 Upon receipt of a bona fide request for preferential rates
8 for the purchase of renewable energy produced in conjunction
9 with agricultural activities, and proof that the renewable
10 energy is produced in conjunction with agricultural activities,
11 a public utility shall forward the request for preferential
12 rates to the public utilities commission for approval."

13 SECTION 3. New statutory material is underscored.

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

APPROVED this day of , 2009

GOVERNOR OF THE STATE OF HAWAII