



GOV. MSG. NO. 1127

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

April 27, 2016

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on April 27, 2016, the following bill was signed into law:

HB2416

RELATING TO RENEWABLE ENERGY
ACT 027 (16)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. The legislature finds that chapter 201N, Hawaii
2 Revised Statutes, enacted by Act 207, Session Laws of Hawaii
3 2008, assigns the director of business, economic development,
4 and tourism, as the State's energy resources coordinator, the
5 responsibility of implementing a renewable energy facility
6 siting process for state and county permits for the siting,
7 development, construction, and operation of renewable energy
8 facilities.

9 According to the state auditor's Report No. 14-13, no
10 project has completed the siting process and the department of
11 business, economic development, and tourism has not implemented
12 a siting process program. The auditor also reported that the
13 renewable energy facility siting special fund, created pursuant
14 to Act 207 for the purpose of funding the operation and
15 administration of the renewable energy facility siting process,
16 maintained a balance of \$0 from the beginning of fiscal year



1 2009-2010 to the end of fiscal year 2013-2014, and had not
2 demonstrated the capacity to be self-sustaining.

3 The department of business, economic development, and
4 tourism's January 12, 2016 budget briefing report indicated that
5 the renewable energy facility siting special fund is expected to
6 have an unencumbered cash balance of \$0 throughout fiscal year
7 2015-2016.

8 Accordingly, the legislature finds that chapter 201N,
9 Hawaii Revised Statutes, should be repealed due to lack of
10 implementation. The purpose of this Act is to repeal chapter
11 201N, Hawaii Revised Statutes, relating to the renewable energy
12 facility siting process.

13 SECTION 2. Section 201-12.5, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) The renewable energy facilitator shall have the
16 following duties:

17 (1) Facilitate the efficient permitting of renewable
18 energy projects, including:

19 (A) The land parcel on which the facility is
20 situated;



- 1 (B) Any renewable energy production structure or
- 2 equipment;
- 3 (C) Any energy transmission line from the facility to
- 4 a public utility's electricity system; and
- 5 (D) Any on-site infrastructure necessary for the
- 6 production of electricity or biofuel from the
- 7 renewable energy site;
- 8 (2) Initiate the implementation of key renewable energy
- 9 projects by permitting various efficiency improvement
- 10 strategies identified by the department;
- 11 (3) Administer the day-to-day coordination for renewable
- 12 energy projects on behalf of the department [~~and the~~
- 13 ~~day to day operations of the renewable energy facility~~
- 14 ~~siting process established in chapter 201N~~]; and
- 15 (4) Submit periodic reports to the legislature on
- 16 renewable energy facilitation activities [~~and the~~
- 17 ~~progress of the renewable energy facility siting~~
- 18 ~~process~~]."

19 SECTION 3. Section 269-27.2, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



1 "(b) The public utilities commission may direct public
2 utilities that supply electricity to the public to arrange for
3 the acquisition of and to acquire electricity generated from
4 nonfossil fuel sources as is available from and the producers
5 are willing and able to make available to the public utilities,
6 and to employ and dispatch the nonfossil fuel generated
7 electricity in a manner consistent with the availability thereof
8 to maximize the reduction in consumption of fossil fuels in the
9 generation of electricity to be provided to the public. [~~Te~~
10 ~~assist the energy resources coordinator in effectuating the~~
11 ~~purposes of chapter 201N, the public utilities commission may~~
12 ~~develop reasonable guidelines and timetables for the creation~~
13 ~~and implementation of power purchase agreements.]"~~

14 SECTION 4. Section 343-2, Hawaii Revised Statutes, is
15 amended by deleting the definition of "renewable energy
16 facility".

17 [~~"Renewable energy facility" has the same meaning as~~
18 ~~defined in section 201N-1."~~]

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



1 "(e) Whenever an applicant proposes an action specified by
2 subsection (a) that requires approval of an agency and that is
3 not a specific type of action declared exempt under section 343-
4 6, the agency initially receiving and agreeing to process the
5 request for approval shall require the applicant to prepare an
6 environmental assessment of the proposed action at the earliest
7 practicable time to determine whether an environmental impact
8 statement shall be required; provided that if the agency
9 determines, through its judgment and experience, that an
10 environmental impact statement is likely to be required, the
11 agency may authorize the applicant to choose not to prepare an
12 environmental assessment and instead prepare an environmental
13 impact statement that begins with the preparation of an
14 environmental impact statement preparation notice as provided by
15 rules. [~~For an action that proposes the establishment of a
16 renewable energy facility, a draft environmental impact
17 statement shall be prepared at the earliest practicable time.~~]
18 The final approving agency for the request for approval is not
19 required to be the accepting authority.

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



- 1 (1) A draft environmental assessment shall be made
2 available for public review and comment for a period
3 of thirty days;
- 4 (2) The office shall inform the public of the availability
5 of the draft environmental assessment for public
6 review and comment pursuant to section 343-3; and
- 7 (3) The applicant shall respond in writing to comments
8 received during the review and the applicant shall
9 prepare a final environmental assessment to determine
10 whether an environmental impact statement shall be
11 required. A statement shall be required if the agency
12 finds that the proposed action may have a significant
13 effect on the environment. The agency shall file
14 notice of the agency's determination with the office,
15 which, in turn, shall publish the agency's
16 determination for the public's information pursuant to
17 section 343-3.

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



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

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

10 The authority to accept a final statement shall rest with
11 the agency initially receiving and agreeing to process the
12 request for approval. The final decision-making body or
13 approving agency for the request for approval is not required to
14 be the accepting authority. The planning department for the
15 county in which the proposed action will occur shall be a
16 permissible accepting authority for the final statement.

17 Acceptance of a required final statement shall be a
18 condition precedent to approval of the request and commencement
19 of the proposed action. Upon acceptance or nonacceptance of the
20 final statement, the agency shall file notice of the
21 determination with the office. The office, in turn, shall



1 publish the determination of acceptance or nonacceptance of the
2 final statement pursuant to section 343-3.

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

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



1 determination. The agency shall abide by the council's
2 decision."

3 SECTION 6. Chapter 201N, Hawaii Revised Statutes, is
4 repealed.

5 SECTION 7. Any employee hired by the department of
6 business, economic development, and tourism pursuant to section
7 201N-2, Hawaii Revised Statutes, before the effective date of
8 this Act and is transferred to another position within the
9 department as a consequence of this Act may retain the
10 employee's exempt status with respect to chapters 76 and 89,
11 Hawaii Revised Statutes, but shall not be appointed to a civil
12 service position as a consequence of this Act. An exempt
13 employee who is transferred by this Act shall not suffer any
14 loss of prior service credit, vacation or sick leave credits
15 previously earned, or other employee benefits or privileges as a
16 consequence of this Act; provided that the employee possesses
17 legal and public employment requirements for the position to
18 which transferred or appointed, as applicable; provided further
19 that subsequent changes in status may be made pursuant to
20 applicable employment and compensation laws. The director of
21 business, economic development, and tourism may prescribe the



1 duties and qualifications of the employee and fix the employee's
2 salary without regard to chapters 76 and 89, Hawaii Revised
3 Statutes.

4 SECTION 8. (a) Any proceeds generated and deposited into
5 the renewable energy facility siting special fund pursuant to
6 Act 207, Session Laws of Hawaii 2008, that are unexpended and
7 unencumbered as of the effective date of this Act shall be
8 deposited into the general fund on the effective date of this
9 Act.

10 (b) All records, equipment, machines, files, supplies,
11 contracts, books, papers, documents, maps, and other personal
12 and real property heretofore made, used, acquired, or held by
13 the energy resources coordinator for the purposes of chapter
14 201N, Hawaii Revised Statutes, shall be maintained by the Hawaii
15 state energy office or transferred to another appropriate agency
16 within the department of business, economic development, and
17 tourism.

18 SECTION 9. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun before its effective date.

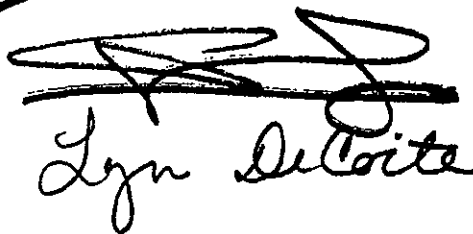
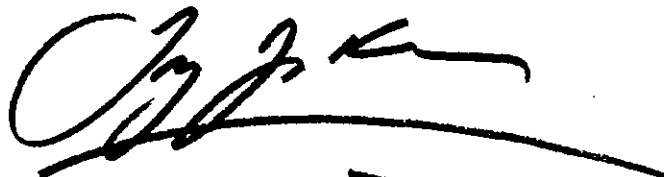
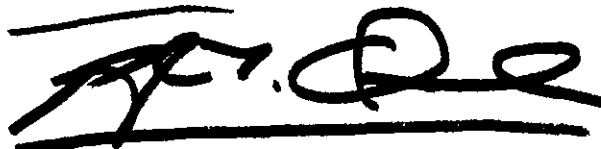


H.B. NO. 2416

1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken.

3 SECTION 11. This Act shall take effect on July 1, 2016.
4

INTRODUCED BY: _____


Lyn DeCoite

JAN 25 2016

APPROVED this 27 day of APR, 2016



GOVERNOR OF THE STATE OF HAWAII

