

JAN 24 2019

A BILL FOR AN ACT

RELATING TO THE HAWAII ENERGY AND CLIMATE CHANGE OFFICE.

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

1 SECTION 1. Chapter 196, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . HAWAII ENERGY AND CLIMATE CHANGE OFFICE

5 §196-A Establishment of the Hawaii energy and climate
6 change office. There is established the Hawaii energy and
7 climate change office, which shall be a public body politic and
8 an instrumentality and agency of the State. The purpose of the
9 Hawaii energy and climate change office is to position Hawaii as
10 a proving ground for clean energy technologies and accelerate
11 Hawaii's transformation to a clean energy economy.

12 §196-B Establishment of the deputy director of energy and
13 climate change. (a) There is established the deputy director
14 of energy and climate change.

15 (b) The deputy director shall have experience, knowledge,
16 and expertise in clean energy related activities and
17 development.



1 (c) The deputy director shall hire staff necessary to
2 carry out the purposes of this part. The deputy director and
3 employees of the Hawaii energy and climate change office shall
4 be exempt from chapter 76, and shall not be considered civil
5 service employees but shall be entitled to any employee benefit
6 plan normally inuring to civil service employees.

7 (d) The power and duties of the deputy director shall be
8 as specified in section 196-4."

9 SECTION 2. Section 141-9, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§141-9 Energy feedstock program. (a) There is
12 established within the department of [~~agriculture~~] business,
13 economic development, and tourism, under the energy resources
14 coordinator, an energy feedstock program that shall:

- 15 (1) Maintain cognizance of actions taken by industry and
16 by federal, state, county, and private agencies in
17 activities relating to the production of energy
18 feedstock, and promote and support worthwhile energy
19 feedstock production activities in the State;
- 20 (2) Serve as an information clearinghouse for energy
21 feedstock production activities;



- 1 (3) Coordinate development projects to investigate and
2 solve biological and technical problems involved in
3 raising selected species with commercial energy
4 generating potential;
- 5 (4) Actively seek federal funding for energy feedstock
6 production activities;
- 7 (5) Undertake activities required to develop and expand
8 the energy feedstock production industry; and
- 9 (6) Perform other functions and activities as may be
10 assigned by law, including monitoring the compliance
11 provisions under section 205-4.5(a)(16).
- 12 (b) The ~~[chairperson of the board of agriculture]~~ energy
13 resources coordinator shall consult and coordinate with the
14 ~~[energy resources coordinator under chapter 196]~~ chairperson of
15 the board of agriculture to establish milestones and objectives
16 for the production of energy feedstock that is grown in the
17 State. The chairperson and the coordinator shall report, as
18 part of the annual department report, the State's progress
19 toward meeting such milestones and objectives annually to the
20 legislature.



1 (c) The [~~chairperson of the board of agriculture~~] energy
2 resources coordinator shall also consult and coordinate with
3 research programs and activities at the department of
4 agriculture and the University of Hawaii that will assist in the
5 further growth and promotion of the energy feedstock production
6 industry in Hawaii.

7 (d) The [~~chairperson of the board of agriculture~~] energy
8 resources coordinator may employ temporary staff exempt from
9 chapters 76 and 89. The board may adopt rules pursuant to
10 chapter 91 to effectuate the purposes of this section.

11 (e) For the purposes of this section, "energy resources
12 coordinator" or "coordinator" means the position described in
13 section 296-3."

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

16 1. By adding two new definitions to be appropriately
17 inserted and to read as follows:

18 "Deputy director" means the deputy director of energy and
19 climate change.

20 "Distributed energy resources" means a resource sited close
21 to customers that:



- 1 (1) Can provide all or some of the customers' immediate
- 2 electric and power needs;
- 3 (2) Can be used by the system to reduce demand or provide
- 4 supply to satisfy the energy, capacity, or ancillary
- 5 service needs of the distribution grid; and
- 6 (3) Is connected to the distribution system and close to
- 7 load, if the resource provides electricity or thermal
- 8 energy.

9 "Distributed energy resources" includes but is not limited to
10 solar photovoltaic and thermal, wind, combined heat and power,
11 electrical and thermal energy storage, demand response, electric
12 vehicles, electric vehicle service equipment, microgrids, energy
13 efficiency, and advanced inverters."

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

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



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

3 "§196-3 Energy resources coordinator. The [~~director of~~
4 ~~business, economic development, and tourism~~] deputy director of
5 energy and climate change shall serve as energy resources
6 coordinator."

7 SECTION 5. Section 196-4, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§196-4 Powers and duties. Subject to the approval of the
10 governor, the coordinator shall:

11 [~~(1) Formulate plans, including objectives, criteria to~~
12 ~~measure accomplishment of objectives, programs through~~
13 ~~which the objectives are to be attained, and financial~~
14 ~~requirements for the optimum development of Hawaii's~~
15 ~~energy resources;~~

16 ~~(2) Conduct systematic analysis of existing and proposed~~
17 ~~energy resource programs, evaluate the analysis~~
18 ~~conducted by government agencies and other~~
19 ~~organizations and recommend programs that represent~~
20 ~~the most effective allocation of resources for the~~
21 ~~development of energy resources;~~



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- 1 ~~(3)~~ (1) Formulate, analyze and recommend specific
2 ~~[proposals, as necessary, for conserving energy~~
3 ~~resources, including the allocation and distribution~~
4 ~~thereof;]~~ policies and plans, in coordination with
5 public and private sector stakeholders, for cost-
6 effectively and equitably achieving the State's energy
7 goals;
- 8 ~~(4)~~ (2) ~~[Assist public and private agencies in~~
9 ~~implementing energy conservation and efficiency~~
10 ~~programs, the development of indigenous energy~~
11 ~~resources, and related measures;]~~ Provide technical
12 assistance to state and county agencies to assess and
13 implement projects and programs related to energy
14 conservation and efficiency, renewable energy,
15 electric and renewable fuel transportation, and
16 related measures;
- 17 ~~(5)~~ (3) Coordinate the State's energy programs with those
18 of the federal government, other state governments,
19 governments of nations with interest in common energy
20 resources, and distributed energy resources, and the
21 political subdivisions of the State;



- 1 ~~[(+6)]~~ (4) ~~[Develop]~~ Identify opportunities, perform state-
2 wide education and outreach, collaborate with
3 stakeholders, and develop programs and tools to
4 encourage private and public exploration, research,
5 and development of ~~[indigenous]~~ energy resources and
6 distributed energy resources that will ~~[benefit the~~
7 ~~State,]~~ support the State's energy goals, including
8 public-private partnership opportunities;
- 9 ~~[(+7)]~~ ~~Conduct public education programs to inform the public~~
10 ~~of the energy resources situation, as it may exist,~~
11 ~~from time to time and of the government actions taken;~~
- 12 ~~(+8)~~ ~~Serve as consultant to the governor, public agencies,~~
13 ~~and private industry on energy related matters;~~
- 14 ~~(+9)]~~ (5) Contract for services when required for the
15 implementation of this chapter;
- 16 ~~[(+10)]~~ (6) Review proposed state actions that the
17 coordinator finds to have significant effect on the
18 State's energy objectives and report to the governor
19 their effect on the energy program, and perform other
20 services as may be required by the governor and the
21 legislature;



- 1 ~~[(11)]~~ (7) Prepare and submit an annual report and other
2 reports as may be requested to the governor and to the
3 legislature on the implementation of this chapter ~~[and~~
4 ~~all matters related to energy resources;~~
- 5 ~~(12)~~ ~~Formulate a systematic process, including the~~
6 ~~development of requirements, to identify geographic~~
7 ~~areas that are rich with renewable energy resource~~
8 ~~potential that can be developed in a cost effective~~
9 ~~and environmentally benign manner and designate these~~
10 ~~areas as renewable energy zones];~~
- 11 ~~[(13)]~~ (8) Develop ~~[and]~~, recommend, and oversee
12 incentives ~~[, plans,]~~ and programs ~~[to]~~ that encourage
13 the development of renewable energy ~~[resource projects~~
14 ~~within the renewable energy zones;]~~ and electric and
15 renewable-fueled transportation resources;
- 16 ~~[(14)]~~ ~~Assist public and private agencies in identifying~~
17 ~~utility transmission projects or infrastructure~~
18 ~~required to accommodate and facilitate the development~~
19 ~~of renewable energy resources;~~
- 20 ~~(15)~~ ~~Assist public and private agencies, in coordination~~
21 ~~with the department of budget and finance, in~~



1 ~~accessing the use of special purpose revenue bonds to~~
2 ~~finance the engineering, design, and construction of~~
3 ~~transmission projects and infrastructure that are~~
4 ~~deemed critical to the development of renewable energy~~
5 ~~resources;~~

6 ~~(16) Develop the criteria or requirements for identifying~~
7 ~~and qualifying specific transmission projects and~~
8 ~~infrastructure that are critical to the development of~~
9 ~~renewable energy resources, including providing~~
10 ~~assistance in accessing the use of special purpose~~
11 ~~revenue bonds to finance the projects or~~
12 ~~infrastructure;~~

13 ~~(17)]~~ (9) Develop and maintain a comprehensive and
14 systematic quantitative and qualitative capacity to
15 analyze the status of energy resources, distributed
16 energy resources, systems, and markets, both in-state
17 and those to which Hawaii is directly tied,
18 particularly in relation to the State's economy, and
19 to recommend, develop proposals for, and assess the
20 effectiveness of policy and regulatory decisions, and
21 conduct energy emergency planning; [and]



- 1 (10) Support state and county agencies responsible for
2 development and adoption of energy-related codes to
3 ensure that the most recent national codes are
4 promptly considered, amended, and adopted in a manner
5 that further advances the State's energy goals;
- 6 (11) Act as the State's energy data clearinghouse by
7 identifying data sources, collecting new data as it
8 becomes available, analyzing temporal and geographic
9 trends, making the data and analyses publicly
10 available, and supporting the legislature and governor
11 with relevant analyses to inform state energy policy
12 plans and proposals;
- 13 (12) Support the implementation and promotion of economic
14 and workforce development initiatives related to and
15 resulting from the State's renewable energy
16 experience, capabilities, and data analyses; and
- 17 [~~18~~] (13) Adopt rules for the administration of this
18 chapter pursuant to chapter 91."

19 SECTION 6. Section 196-10.5, Hawaii Revised Statutes, is
20 amended as follows:

- 21 1. By amending its title to read:



1 " ~~[§196-10.5]~~ Hawaii clean energy initiative program."

2 2. By amending subsection (c) to read:

3 "(c) The department of business, economic development, and
4 tourism shall submit a report to the legislature no later than
5 twenty days prior to the convening of each regular session on
6 the status and progress of new and existing clean energy
7 initiatives. The report shall also include:

8 (1) The spending plan of the Hawaii clean energy
9 initiative program; and

10 ~~[-(2) All expenditures of energy security special fund
11 moneys; and~~

12 ~~-(3)]~~ (2) The targeted markets of the expenditures,
13 including reasons for selecting those markets, the
14 persons to be served, specific objectives of the
15 program, and program expenditures, including
16 measurable outcomes."

17 SECTION 7. Section 225P-3, Hawaii Revised Statutes, is
18 amended by amending subsections (a) through (c) to read as
19 follows:

20 "(a) There is established the Hawaii climate change
21 mitigation and adaptation commission that shall be placed within



1 the department of [~~land and natural resources~~] business,
2 economic development, and tourism for administrative purposes
3 only.

4 (b) Coordination of the commission shall be headed jointly
5 by the [~~chairperson of the board of land and natural resources,~~]
6 director of business, economic development, and tourism, or the
7 [~~chairperson's~~] director's designee, and the director of the
8 office of planning, or the director's designee.

9 (c) The commission shall include the following members:

- 10 (1) The chairs of the standing committees of the
11 legislature with subject matter jurisdiction
12 encompassing environmental protection and land use;
- 13 (2) The [~~chairperson of the board of land and natural~~
14 ~~resources~~] director of business, economic development,
15 and tourism or the [~~chairperson's~~] director's
16 designee, who shall be the co-chair of the commission;
- 17 (3) The director of the office of planning or the
18 director's designee, who shall be the co-chair of the
19 commission;
- 20 (4) The [~~director of business, economic development, and~~
21 ~~tourism or the director's~~] chairperson of the board of



- 1 land and natural resources or the chairperson's
2 designee;
- 3 (5) The chairperson of the board of directors of the
4 Hawaii tourism authority or the chairperson's
5 designee;
- 6 (6) The chairperson of the board of agriculture or the
7 chairperson's designee;
- 8 (7) The chief executive officer of the office of Hawaiian
9 affairs or the officer's designee;
- 10 (8) The chairperson of the Hawaiian homes commission or
11 the chairperson's designee;
- 12 (9) The director of transportation or the director's
13 designee;
- 14 (10) The director of health or the director's designee;
- 15 (11) The adjutant general or the adjutant general's
16 designee;
- 17 (12) The chairperson of the board of education or the
18 chairperson's designee;
- 19 (13) The directors of each of the county planning
20 departments, or the directors' designees; and
- 21 (14) The manager of the coastal zone management program."



1 SECTION 8. Section 243-3.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) In addition to any other taxes provided by law,
4 subject to the exemptions set forth in section 243-7, there is
5 hereby imposed a state environmental response [~~energy~~] and
6 food security tax on each barrel or fractional part of a barrel
7 of petroleum product sold by a distributor to any retail dealer
8 or end user of petroleum product, other than a refiner. The tax
9 shall be \$1.05 on each barrel or fractional part of a barrel of
10 petroleum product that is not aviation fuel; provided that of
11 the tax collected pursuant to this subsection:

12 (1) 5 cents of the tax on each barrel shall be deposited
13 into the environmental response revolving fund
14 established under section 128D-2;

15 [~~(2)~~ ~~15 cents of the tax on each barrel shall be deposited~~
16 ~~into the energy security special fund established~~
17 ~~under section 201-12.8;~~

18 ~~(3)~~ (2) 10 cents of the tax on each barrel shall be
19 deposited into the energy systems development special
20 fund established under section 304A-2169.1; and



1 [~~(4)~~] (3) 15 cents of the tax on each barrel shall be
2 deposited into the agricultural development and food
3 security special fund established under section
4 141-10.

5 The tax imposed by this subsection shall be paid by the
6 distributor of the petroleum product."

7 SECTION 9. Sections 128D-2(a), 141-10(b), and
8 304A-2169.1(b), Hawaii Revised Statutes, are amended by
9 substituting the words "environmental response and food security
10 tax" wherever the words "environmental response, energy, and
11 food security tax" appear, as the context requires.

12 SECTION 10. Sections 76-16(b), 107-22(b), and 304A-1959,
13 Hawaii Revised Statutes, are amended by substituting the words
14 "Hawaii energy and climate change office" wherever the words
15 "Hawaii state energy office" or "state energy office" appear, as
16 the context requires.

17 SECTION 11. Act 32, Session Laws of Hawaii 2017, is
18 amended as follows:

19 1. By amending section 6 to read:

20 "SECTION 6. [~~Chapter 225P, Hawaii Revised Statutes, is~~
21 ~~repealed.~~] Repealed."



1 2. By amending section 10 to read:

2 "SECTION 10. This Act shall take effect on July 1, 2017 [~~7~~
3 ~~provided that section 6 shall take effect on July 1, 2022~~]."

4 SECTION 12. Section 201-12.8, Hawaii Revised Statutes, is
5 repealed.

6 ~~["§201-12.8 Energy security special fund; uses.—(a)~~

7 ~~There is created within the state treasury an energy security~~
8 ~~special fund, which shall consist of:~~

9 ~~(1) The portion of the environmental response, energy, and~~
10 ~~food security tax specified under section 243-3.5;~~

11 ~~(2) Moneys appropriated to the fund by the legislature;~~

12 ~~(3) All interest attributable to investment of money~~
13 ~~deposited in the fund; and~~

14 ~~(4) Moneys allotted to the fund from other sources,~~
15 ~~including under section 196-6.5.~~

16 ~~(b) Subject to legislative appropriation, moneys from the~~
17 ~~fund may be expended by the department of business, economic~~
18 ~~development, and tourism for the following purposes and used for~~
19 ~~no other purposes, except for those set forth in this section:~~

20 ~~(1) To support the Hawaii clean energy initiative program,~~
21 ~~including its energy division, including funding staff~~



1 ~~positions within the division, and projects that~~
2 ~~ensure dependable, efficient, and economical energy,~~
3 ~~promote energy self sufficiency, and provide greater~~
4 ~~energy security for the State;~~

5 ~~(2) To fund the renewable energy facilitator pursuant to~~
6 ~~section 201-12.5 and any other positions necessary for~~
7 ~~the purposes of paragraph (1) as determined by the~~
8 ~~legislature; and~~

9 ~~(3) To fund, to the extent possible, the greenhouse gas~~
10 ~~emissions reduction task force, climate change task~~
11 ~~force, grants in aid to the economic development~~
12 ~~boards of each county, and grants in aid to economic~~
13 ~~development agencies of each county to meet the stated~~
14 ~~objectives of the Hawaii clean energy initiative~~
15 ~~program.~~

16 ~~(c) The department of business, economic development, and~~
17 ~~tourism shall submit a report to the legislature, no later than~~
18 ~~twenty days prior to the convening of each regular session, on~~
19 ~~the status and progress of existing programs and activities and~~
20 ~~the status of new programs and activities funded by the energy~~
21 ~~security special fund. The report shall also include:~~



- 1 ~~(1) The spending plan of the energy security special fund,~~
- 2 ~~(2) All expenditures of energy security special fund~~
- 3 ~~moneys; and~~
- 4 ~~(3) The targeted markets of the expenditures, including~~
- 5 ~~the reason for selecting those markets; the persons to~~
- 6 ~~be served; and the specific objectives of the~~
- 7 ~~expenditures, including measurable outcomes."]~~

8 SECTION 13. All rights, powers, functions, and duties of
9 the Hawaii climate change mitigation and adaptation commission
10 in the department of land and natural resources are transferred
11 to the department of business, economic development, and
12 tourism.

13 All employees who occupy civil service positions and whose
14 functions are transferred to the department of business,
15 economic development, and tourism by this Act shall retain their
16 civil service status, whether permanent or temporary. Employees
17 shall be transferred without loss of salary, seniority (except
18 as prescribed by applicable collective bargaining agreements),
19 retention points, prior service credit, any vacation and sick
20 leave credits previously earned, and other rights, benefits, and
21 privileges, in accordance with state personnel laws and this



1 Act; provided that the employees possess the minimum
2 qualifications and public employment requirements for the class
3 or position to which transferred or appointed, as applicable;
4 provided further that subsequent changes in status may be made
5 pursuant to applicable civil service and compensation laws.

6 Any employee who, prior to this Act, is exempt from civil
7 service and is transferred as a consequence of this Act may
8 retain the employee's exempt status, but shall not be appointed
9 to a civil service position as a consequence of this Act. An
10 exempt employee who is transferred by this Act shall not suffer
11 any loss of prior service credit, vacation or sick leave credits
12 previously earned, or other employee benefits or privileges as a
13 consequence of this Act; provided that the employees possess
14 legal and public employment requirements for the position to
15 which transferred or appointed, as applicable; provided further
16 that subsequent changes in status may be made pursuant to
17 applicable employment and compensation laws. The director of
18 business, economic development, and tourism may prescribe the
19 duties and qualifications of these employees and fix their
20 salaries without regard to chapter 76, Hawaii Revised Statutes.



1 SECTION 14. All rules, policies, procedures, guidelines,
2 and other material adopted or developed by the Hawaii climate
3 change mitigation and adaptation commission in the department of
4 land and natural resources to implement provisions of the Hawaii
5 Revised Statutes that are reenacted or made applicable to the
6 Hawaii climate change mitigation and adaptation commission in
7 the department of business, economic development, and tourism by
8 this Act shall remain in full force and effect until amended or
9 repealed by the department of business, economic development,
10 and tourism pursuant to chapter 91, Hawaii Revised Statutes. In
11 the interim, every reference to the Hawaii climate change
12 mitigation and adaptation commission in the department of land
13 and natural resources or the chairperson of the board of land
14 and natural resources in those rules, policies, procedures,
15 guidelines, and other material is amended to refer to the Hawaii
16 climate change mitigation and adaptation commission in the
17 department of business, economic development, and tourism or the
18 director of business, economic development, and tourism, as
19 appropriate.

20 SECTION 15 All deeds, leases, contracts, loans,
21 agreements, permits, or other documents executed or entered into



1 by or on behalf of the Hawaii climate change mitigation and
2 adaptation commission in the department of land and natural
3 resources, pursuant to the provisions of the Hawaii Revised
4 Statutes that are reenacted or made applicable to the department
5 of business, economic development, and tourism by this Act shall
6 remain in full force and effect. Effective July 1, 2019, every
7 reference to the department of land and natural resources or the
8 board of land and natural resources in those deeds, leases,
9 contracts, loans, agreements, permits, or other documents shall
10 be construed as a reference to the department of business,
11 economic development, and tourism or the director of business,
12 economic development, and tourism, as appropriate.

13 SECTION 16. All appropriations, records, equipment,
14 machines, files, supplies, contracts, books, papers, documents,
15 maps, and other personal property heretofore made, used,
16 acquired, or held by the department of Hawaii climate change
17 mitigation and adaptation commission in the department of land
18 and natural resources relating to the functions transferred to
19 the department of business, economic development, and tourism
20 shall be transferred with the functions to which they relate.



1 SECTION 17. There is appropriated out of the general
 2 revenues of the State of Hawaii the sum of \$ or so
 3 much thereof as may be necessary for fiscal year 2019-2020 and
 4 the same sum or so much thereof as may be necessary for fiscal
 5 year 2020-2021 for the Hawaii energy and climate change office.

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

9 SECTION 18. In codifying the new sections added by section
 10 1 of this Act, the revisor of statutes shall substitute
 11 appropriate section numbers for the letters used in designating
 12 the new sections in this Act.

13 SECTION 19. This Act does not affect rights and duties
 14 that matured, penalties that were incurred, and proceedings that
 15 were begun before its effective date.

16 SECTION 20. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 21. This Act shall take effect on July 1, 2019.

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INTRODUCED BY:

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S.B. NO. 1529

Report Title:

Hawaii State Energy Office; Hawaii Energy and Climate Change Office; Department of Land and Natural Resources; Department of Business, Economic Development, and Tourism; Transfer; Deputy Director of Energy and Climate Change; Appropriation

Description:

Establishes the Hawaii energy and climate change office. Transfers the Hawaii climate change mitigation and adaptation commission from the department of land and natural resources to the department of business, economic development, and tourism. Establishes the deputy director of energy and climate change commission. Ends funding for the Hawaii clean energy initiative from the energy security special fund. Appropriates funds from the general fund for the Hawaii energy and climate change office.

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