

JAN 19 2024

A BILL FOR AN ACT

RELATING TO BUILDINGS.

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

1 SECTION 1. The legislature finds that the State declared a
2 climate emergency and is committed to reducing the emissions of
3 greenhouse gases. The built environment generates forty per
4 cent of the annual global carbon dioxide emissions, and
5 buildings are typically operated inefficiently. For example,
6 commercial buildings, on average, use thirty per cent of energy
7 inefficiently.

8 The legislature further finds that various state and local
9 governments, including the city and county of Honolulu, have
10 passed laws that require the measuring and tracking of
11 greenhouse gas emissions, as well as energy and water
12 consumption from buildings. All jurisdictions with benchmarking
13 laws have specified the use of the United States Environmental
14 Protection Agency's ENERGY STAR Portfolio Manager measurement
15 and tracking tool.

16 The ENERGY STAR Portfolio Manager is available at no cost
17 to users and can be used in a secure online environment. Forty



1 per cent of commercial building spaces in the United States are
2 already using ENERGY STAR Portfolio Manager, including thirty-
3 five per cent of Fortune 500 corporations.

4 The purpose of this Act is to create a building
5 benchmarking program that uses the ENERGY STAR Portfolio Manager
6 to encourage state buildings to become more environmentally
7 sustainable, particularly with respect to greenhouse gas
8 emissions and energy and water consumption.

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

12 **"PART . BUILDING BENCHMARKING PROGRAM**

13 **§196-A Purpose.** The legislature finds that there exists a
14 worldwide climate emergency. Greenhouse gas emissions from all
15 sources of human activity must be reduced dramatically to keep
16 the earth livable. The legislature further finds that
17 environmental sustainability also requires the efficient use of
18 energy and water. The purpose of this part is to establish a
19 building benchmarking program to make state buildings more
20 environmentally sustainable, particularly with respect to
21 greenhouse gas emissions and energy and water consumption.



1 **§196-B Definitions.** As used in this part, unless the
2 context otherwise requires:

3 "Aggregated whole-building data" means energy or water data
4 that has been summed for an entire property, which may include a
5 single occupant or a group of separately metered tenants.

6 "Benchmark" means to input and submit the total energy and
7 water consumed for a property for the previous calendar year and
8 other descriptive information for the property as required by
9 the benchmarking tool.

10 "Benchmarking tool" means the United States Environmental
11 Protection Agency's ENERGY STAR Portfolio Manager, or any
12 additional or alternative tool adopted by the Hawaii state
13 energy office, used to benchmark, track, and assess the energy
14 and water use of certain properties relative to similar
15 properties.

16 "Chief energy officer" means the chief energy officer of
17 the Hawaii state energy office.

18 "Covered property" means a property that exceeds ten
19 thousand square feet in gross floor area and is owned, leased,
20 or otherwise controlled by the State. "Covered property" does
21 not include:



- 1 (1) Single family, duplex, triplex, and fourplex
2 residential homes and related accessory structures, or
3 any other residential building with fewer than five
4 units;
- 5 (2) Any building with less than ten thousand square feet
6 in gross floor area, that is not otherwise part of a
7 campus as described in paragraph (3) of the definition
8 for "property" for the purposes of benchmarking;
- 9 (3) Properties classified as industrial per designated
10 Standard Industrial Classification codes 20 through
11 39;
- 12 (4) Properties owned by government bodies not subject to
13 the authority of this part or governed by other
14 chapters; and
- 15 (5) Other building types not meeting the purpose of this
16 part, as determined by the chief energy officer.

17 "Energy" means electricity, natural gas, steam, or other
18 product sold by a utility to a customer of a property, or
19 renewable on-site electricity generation, for purposes of
20 providing heating, cooling, lighting, or water heating, or for



1 powering or fueling other end-uses as recorded in the
2 benchmarking tool.

3 "ENERGY STAR Portfolio Manager" means the tool developed
4 and maintained by the United States Environmental Protection
5 Agency to track and assess the relative energy performance of
6 buildings.

7 "ENERGY STAR score" means the numeric rating generated by
8 the ENERGY STAR Portfolio Manager as a measurement of a
9 building's energy efficiency.

10 "Gross floor area" means the total property area, measured
11 between the outside surfaces of the exterior walls of the
12 building. "Gross floor area" includes all areas inside the
13 building, including but not limited to lobbies, tenant areas,
14 common areas, meeting rooms, break rooms, base level atriums,
15 restrooms, elevator shafts, stairwells, mechanical equipment
16 areas, basements, and storage rooms.

17 "Owner" means the state agency that owns, leases, or
18 otherwise controls the covered property.

19 "Property" means:

20 (1) A single building;



1 (2) One or more buildings held in the condominium form of
2 ownership and governed by a single board of directors;
3 or

4 (3) A campus of two or more contiguous buildings that are
5 owned and operated by the same owner, have a single
6 shared primary function, and are:

7 (A) Behind a common utility meter or served by a
8 common mechanical or electrical system, such as a
9 chilled water loop, that would prevent the owner
10 from being able to easily determine the energy
11 use attributable to each of the individual
12 buildings; or

13 (B) Used primarily for:
14 (i) A K-12 school;
15 (ii) A hospital;
16 (iii) A hotel;
17 (iv) Multifamily housing; or
18 (v) A senior care community.

19 "Shared benchmarking information" means information
20 generated by the benchmarking tool and descriptive information
21 about the physical property and its operational characteristics



1 that is shared with the Hawaii state energy office. "Shared
2 benchmarking information" includes but is not limited to:

3 (1) Descriptive information, such as:

4 (A) Property address;

5 (B) Primary use;

6 (C) Gross floor area;

7 (D) Number of floors;

8 (E) Number of building parking spaces or parking area
9 in square feet;

10 (F) Number of years the property has been ENERGY STAR
11 certified and the last approval date, if
12 applicable; and

13 (G) Individual or entity responsible for the
14 benchmarking submission; and

15 (2) Output information, such as:

16 (A) Site and source energy use intensity;

17 (B) Weather normalized site and source energy use
18 intensity;

19 (C) The ENERGY STAR score, where available;

20 (D) Total annual greenhouse gas emissions;

21 (E) Monthly energy use by fuel type;



- 1 (F) Indoor water use and water use intensity, based
- 2 on consumption per gross square foot;
- 3 (G) Outdoor water use, where available;
- 4 (H) Total water use;
- 5 (I) The ENERGY STAR Water Score, where available; and
- 6 (J) General comments section, if needed, to explain
- 7 the building's ENERGY STAR scores.

8 "Tenant" means a person or entity occupying or holding
 9 possession of a building, part of a building, or premises
 10 pursuant to a rental or lease agreement or through ownership of
 11 a unit within, or portion of, the building.

12 **§196-C Powers and duties of the Hawaii state energy**
 13 **office.** The Hawaii state energy office shall:

- 14 (1) Receive, disburse, use, expend, and account for all
- 15 funds that are made available by the United States and
- 16 State for the purposes of this part;
- 17 (2) Provide support and assistance in the administration
- 18 of the building benchmarking program;
- 19 (3) Review federal programs, federal permits, federal
- 20 licenses, and federal development proposals for
- 21 consistency with the building benchmarking program;



- 1 (4) Facilitate public participation in the building
2 benchmarking program, including maintaining of a
3 public advisory body to identify sustainable building
4 problems and provide policy advice and assistance to
5 the Hawaii state energy office;
- 6 (5) Prepare and periodically update a plan for use of
7 building management funds to resolve problems and
8 issues that are not adequately addressed by existing
9 laws and rules;
- 10 (6) Advocate for agency compliance with this part;
- 11 (7) Monitor the enforcement activities of the state
12 agencies responsible for the administration of the
13 objectives and policies of this part;
- 14 (8) Prepare an annual report to the governor and
15 legislature, including recommendations for any
16 proposed legislation necessary to ensure agency
17 compliance with the objectives and policies of this
18 part and any guidelines enacted by the legislature;
19 and
- 20 (9) Coordinate the implementation of the building
21 benchmarking program.



1 **§196-D Collecting and entering benchmarking data.** (a)

2 Each year, the owner of each covered property shall collect and
3 enter all data needed to benchmark the entire property for the
4 previous calendar year into the benchmarking tool in a manner
5 that conforms to the latest guidance provided by the United
6 States Environmental Protection Agency for use of the
7 benchmarking tool. Aggregated whole-building data for the
8 property's energy and water use shall be compiled using at least
9 one of the following methods:

- 10 (1) Obtaining aggregated whole-building data from a
11 utility;
- 12 (2) Collecting data from all tenants; or
- 13 (3) Reading a master meter.

14 (b) If the owner of a covered property does not have
15 access to aggregated whole-building data, the owner shall
16 request aggregated whole-building data from each utility that
17 provides energy or water service to the property. When a
18 utility does not provide aggregated whole-building data, the
19 owner of a covered property shall request tenant energy and
20 water data using a form provided by the Hawaii state energy
21 office. Owners may request authorization from tenants for the



1 utility to share their data in an aggregated format with the
2 owner. Each utility that provides energy or water service to a
3 property shall, upon request, provide aggregated whole-building
4 data to the owner of the property.

5 (c) Each nonresidential tenant located in a covered
6 property shall, within thirty days of a request by the owner,
7 provide all information that cannot otherwise be acquired by the
8 owner and that is needed by the owner to comply with the
9 requirements of this part.

10 (d) Nothing in this part shall be construed to permit an
11 owner to disclose or use tenant energy usage data for any
12 purpose except compliance with the requirements of this part,
13 nor shall the reporting requirements of this part be construed
14 to excuse owners from compliance with federal or state laws
15 governing direct access to tenant utility data from the
16 responsible utility.

17 (e) If the tenant of a covered property fails to provide
18 information to the owner as provided in this part, the owner
19 shall be considered in compliance with the reporting
20 requirements of this part with respect to the building if:



1 (1) The owner proves that the owner has requested the
2 tenant to provide the information specified in this
3 part in a format as required by the Hawaii state
4 energy office; and

5 (2) The owner has used the benchmarking tool for the
6 building using all information otherwise available to
7 the owner.

8 The Hawaii state energy office may provide alternate values as
9 established by the office.

10 **§196-E Submitting a benchmarking report.** (a) For every
11 covered property subject to this part, the owner shall annually
12 submit to the chief energy officer an energy and water
13 benchmarking report in an electronic format by means of the
14 benchmarking tool, by the date specified in section 196-F.

15 (b) The information included in the benchmarking report
16 shall include the data entered in the benchmarking tool and
17 shared benchmarking information.

18 (c) The owner of each covered property shall enter data
19 into the benchmarking tool so that the energy and water
20 benchmarking report shall be based on an assessment of the



1 aggregated total energy and water consumed by the whole property
2 for the entire calendar year being reported.

3 (d) Before submitting a benchmarking report, the owner
4 shall run the data quality checker functions available within
5 the benchmarking tool and verify that all data has been
6 accurately entered into the tool. In order for the benchmarking
7 report to be considered in compliance with this part, the owner
8 shall correct all missing or incorrect information as identified
9 by the data quality checker before submitting the benchmarking
10 report to the chief energy officer.

11 (e) Once the owner learns that any information reported as
12 part of the submission of the benchmarking report is inaccurate
13 or incomplete, the owner shall amend the information reported
14 within the benchmarking tool and provide the Hawaii state energy
15 office with an updated benchmarking report within thirty days of
16 learning of the inaccuracy.

17 **§196-F Benchmarking schedule.** (a) The owner of a covered
18 property shall ensure that a benchmarking report for that
19 property is generated, completed, and submitted to the Hawaii
20 state energy office annually in accordance with the schedules
21 and deadlines specified in this section.



1 (b) The initial benchmarking reports for each covered
2 property shall be filed in accordance with subsection (e).
3 Subsequent benchmarking reports for each covered property shall
4 be due by June 1 of each year thereafter.

5 (c) Beginning no later than December 1, 2026, and every
6 year thereafter, the Hawaii state energy office shall make
7 available on a publicly accessible website an annual report
8 based on the benchmarking reports received. The report shall
9 include a summary of energy and water consumption statistics and
10 an assessment of compliance rates, accuracy and issues affecting
11 accuracy, changes across the portfolio over time, trends
12 observed, and other information as determined by the chief
13 energy officer.

14 (d) The Hawaii state energy office shall make a covered
15 property's data transparency information available to the public
16 beginning the year after the covered property is first required
17 to submit a benchmarking report in accordance with the schedule
18 pursuant to subsection (e). Subsequent data transparency
19 information shall be made public each year thereafter.



1 (e) The initial reporting deadline shall be
2 December 31, 2025, and the initial transparency year shall be
3 2026.

4 **§196-G Benchmarking exemptions.** (a) The owner of a
5 covered property shall be exempt from the requirements of
6 section 196-E if the owner submits documentation to the Hawaii
7 state energy office, in a form and with certifications as
8 required by the office, establishing that the covered property
9 met at least one of the following conditions for the calendar
10 year to be benchmarked:

11 (1) The property did not have a certificate of occupancy
12 or temporary certificate of occupancy for that full
13 calendar year;

14 (2) The property had a physical occupancy rate of less
15 than fifty per cent over at least ten months of that
16 calendar year;

17 (3) The property was in foreclosure;

18 (4) A demolition permit for the entire property was issued
19 during that year; provided that demolition work
20 commenced, and legal occupancy was no longer possible,
21 prior to the end of that year; or



1 (5) The property or building is solely occupied by the
2 owner of the property and:

3 (A) Is not offered for lease, rental, or similar
4 commercial arrangement to any person or entity;
5 or

6 (B) The only persons or entities permitted to lease
7 or rent the buildings have the same owner as the
8 owner of the property; provided that the owner
9 shall certify to the Hawaii state energy office
10 that the exception under this subparagraph
11 applies.

12 (b) The covered property's data transparency information
13 shall not be publicly available for the reporting year if the
14 owner submits documentation to the Hawaii state energy office,
15 in a form and with certifications as required by the office,
16 establishing that, due to special circumstances unique to the
17 property, strict compliance with the provisions of this part
18 would not be in the public interest.

19 (c) Any owner requesting an exemption pursuant to
20 subsection (a) or (b) shall, by March 1 in the year for which
21 the exemption is being requested, submit to the Hawaii state



1 energy office any documentation reasonably necessary to
2 substantiate the request or otherwise assist the office in the
3 exemption determination. Any exemption granted shall be limited
4 to the submission of a benchmarking report or the public
5 disclosure of data transparency information for which the
6 request was made and shall not extend to past or future
7 submittals.

8 **§196-H Maintenance of records.** (a) Owners shall maintain
9 records as the Hawaii state energy office determines is
10 necessary for carrying out the purposes of this part, including
11 but not limited to the energy and water bills and reports or
12 forms received from tenants or utilities. The records shall be
13 retained for a period of three years. At the request of the
14 Hawaii state energy office, the records shall be made available
15 for inspection by the office.

16 (b) When a covered property is sold, the records and
17 online benchmarking tool records shall be transferred to the new
18 property owner, if the new property owner is another state
19 agency.

20 (c) The Hawaii state energy office shall reserve the right
21 to review records as the office deems necessary to evaluate the



1 efficacy of this part. Records shall be provided to the chief
2 energy officer upon request.

3 , **§196-I Compliance.** All state agencies shall ensure that
4 their rules comply with the objectives and policies of this part
5 and any guidelines enacted by the legislature.

6 **§196-J Rules.** The Hawaii state energy office may adopt
7 rules in accordance with chapter 91 to carry out the purposes of
8 this part."

9 SECTION 3. Section 196-30, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) By December 31, ~~[2010]~~ 2025, each state department
12 with responsibilities for the design and construction of public
13 buildings and facilities shall benchmark every existing public
14 building that is ~~[either]~~ larger than ~~[five]~~ ten thousand square
15 feet ~~[or uses more than eight thousand kilowatt-hours of~~
16 ~~electricity or energy per year]~~ and shall use the benchmark as a
17 basis for determining the State's investment in improving the
18 efficiency of its own building stock. Benchmarking shall be
19 conducted using the ENERGY STAR portfolio ~~[management]~~ manager
20 or equivalent tool. The chief energy officer of the Hawaii
21 state energy office shall provide technical assistance and



1 training to affected departments on the ENERGY STAR portfolio
2 ~~[management]~~ manager or equivalent tool~~[-]~~, as funding is made
3 available to support this effort."

4 SECTION 4. Section 196-31, Hawaii Revised Statutes, is
5 amended by amending its title and subsection (a) to read as
6 follows:

7 "~~[§]~~**§196-31**~~[§]~~ **Energy efficiency implementation for state**
8 **facilities.** (a) State facilities shall implement cost-
9 effective energy efficiency measures as follows:

10 (1) Beginning on January 1, 2024, for all state facilities
11 that have not implemented section 36-41 since 2010;
12 and

13 (2) Beginning on January 1, ~~[2026,]~~ 2027, for all other
14 state facilities;

15 ~~[provided that no entity shall claim tax credits or deductions,~~
16 ~~or depreciate assets under title 14 for implementing energy~~
17 ~~efficiency measures pursuant to this section;]~~ provided
18 ~~[further]~~ that nothing in this subsection shall prohibit
19 facilities from implementing energy efficiency measures sooner
20 than indicated under paragraph (1) or (2)."



1 SECTION 5. Section 196-71, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The Hawaii state energy office shall:

4 (1) Provide analysis and planning to actively develop and
5 inform policies to achieve energy efficiency,
6 renewable energy, energy resiliency, and clean
7 transportation goals with the legislature, public
8 utilities commission, state agencies, and other
9 relevant stakeholders;

10 (2) Lead efforts to incorporate energy efficiency,
11 renewable energy, energy resiliency, and clean
12 transportation to reduce costs and achieve clean
13 energy goals across all public facilities;

14 (3) Provide renewable energy, energy efficiency, energy
15 resiliency, and clean transportation project
16 deployment facilitation to assist private sector
17 project completion when aligned with state energy
18 goals; [and]

19 (4) Engage the private sector to help lead efforts to
20 achieve renewable energy and clean transportation



1 goals through the Hawaii clean energy initiative[-];
2 and
3 (5) Carry out the responsibilities for the building
4 benchmarking program, as specified in part ."

5 SECTION 6. In accordance with section 9 of article VII of
6 the Hawaii State Constitution and sections 37-91 and 37-93,
7 Hawaii Revised Statutes, the legislature has determined that the
8 appropriations contained in Act 164, Regular Session of 2023,
9 and this Act will cause the state general fund expenditure
10 ceiling for fiscal year 2024-2025 to be exceeded by
11 \$ or per cent. This current declaration takes
12 into account general fund appropriations authorized for fiscal
13 year 2024-2025 in Act 164, Regular Session of 2023, and this Act
14 only. The reasons for exceeding the general fund expenditure
15 ceiling are that:

- 16 (1) The appropriation made in this Act is necessary to
17 serve the public interest; and
18 (2) The appropriation made in this Act meets the needs
19 addressed by this Act.

20 SECTION 7. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so



1 much thereof as may be necessary for fiscal year 2024-2025 for
2 the building benchmarking program established by section 2 of
3 this Act.

4 The sum appropriated shall be expended by the department of
5 business, economic development, and tourism for the purposes of
6 this Act.

7 SECTION 8. If any provision of this Act, or the
8 application thereof to any person or circumstance, is held
9 invalid, the invalidity does not affect other provisions or
10 applications of the Act that can be given effect without the
11 invalid provision or application, and to this end the provisions
12 of this Act are severable.

13 SECTION 9. In codifying the new sections added by
14 section 2 of this Act, the revisor of statutes shall substitute
15 appropriate section numbers for the letters used in designating
16 the new sections in this Act.

17 SECTION 10. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 11. This Act shall take effect on July 1, 2024.

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INTRODUCED BY: _____



S.B. NO. 2826

Report Title:

State Buildings; Hawaii State Energy Office; ENERGY STAR;
Building Benchmarking Program; Benchmarking Data; Reporting;
Expenditure Ceiling; Appropriation

Description:

Requires state agencies to process the aggregated energy and water data of certain properties through the federal ENERGY STAR Portfolio Manager and submit the benchmarking data to the Hawaii State Energy Office. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation.

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