

1 "CHAPTER

2 HAWAII FUEL AUTHORITY

3 § -1 **Definitions.** As used in this chapter, unless the
4 context otherwise requires:

5 "Board" means the board of directors of the fuel authority
6 established in section -2, and any successor thereto.

7 "Department" means the department of business, economic
8 development, and tourism.

9 "Distribution facility" means any mobile or immobile
10 structure or vehicle built to handle any aspect in the chain of
11 distribution of gasoline or diesel fuel, including any area for
12 loading vehicles for transferring the fuel to independent retail
13 gas service stations.

14 "Fuel authority" means the Hawaii fuel authority
15 established by section -2.

16 "Gasoline" includes gasoline, benzol, benzine, naphtha, and
17 any other liquid prepared, advertised, offered for sale, sold
18 for use as, or used for, the generation of power for the
19 propulsion of motor vehicles, including any product obtained by
20 blending together any one or more petroleum products with or
21 without other products, if the resultant product is capable of
22 the same use.



1 "Independent retail gas service station" means a retail gas
2 service station that is not bound by any franchise or other
3 agreement with a petroleum producer, refiner, wholesaler, or
4 distributor to exclusively buy gasoline or diesel fuel from the
5 producer, refiner, wholesaler, or distributor.

6 "Storage facility" means any container, building, or
7 structure built within the state to handle the storage or
8 containment of gasoline or diesel fuel for the purpose of
9 storing the fuel between importing and distribution, including
10 facilities used to refine, compound, mix, or otherwise prepare
11 the fuel for sale in compliance with state and local laws.

12 § -2 **Establishment of the Hawaii fuel authority;**
13 **purpose.** (a) There is established the Hawaii fuel authority,
14 which shall be a public body corporate and politic and an
15 instrumentality and agency of the State. The fuel authority
16 shall be placed within the department of business, economic
17 development, and tourism for administrative purposes, pursuant
18 to section 26-35, except sections 26-35(4) and 26-35(5). The
19 purpose of the fuel authority shall be to provide reasonably
20 priced wholesale gasoline and diesel fuel to independent retail
21 gas service station operators. Its duties shall include:



1 (1) Importing gasoline and diesel fuel from mainland or
2 overseas spot markets suitable for use in motor
3 vehicles;

4 (2) Storing the imported gasoline and diesel fuel on each
5 of the islands; and

6 (3) Distributing the wholesale gasoline and diesel fuel to
7 independent retail gas service stations within the
8 state at reasonable prices.

9 (b) The governing body of the fueling authority shall
10 consist of a board of directors comprised of nine voting members
11 to be appointed by the governor; provided that:

12 (1) Three members shall be appointed by the governor from
13 a list of five nominees submitted by the speaker of
14 the house of representatives;

15 (2) Three members shall be appointed by the governor from
16 a list of five nominees submitted by the senate
17 president;

18 (3) Two members shall be appointed by the governor; and

19 (4) The director of business, economic development, and
20 tourism shall serve as an ex officio voting member.

21 Six of the appointed members shall be from the general public
22 and selected on the basis of their knowledge, interest, and



1 proven expertise in one or more of the following fields:
2 gasoline, marketing, finance, economics, engineering, commerce
3 and trade, and corporate management. All appointed members of
4 the board shall continue in office until their respective
5 successors have been appointed. The director of business,
6 economic development, and tourism shall serve as the chairperson
7 until such time as the chairperson is elected by the board from
8 the membership. The board shall elect such other officers as it
9 deems necessary.

10 (c) The members of the board appointed under subsection
11 (b) shall serve without compensation, but may be reimbursed for
12 expenses, including travel expenses, incurred in the performance
13 of their duties.

14 (d) The board shall appoint a chief executive officer, who
15 shall serve at the pleasure of the board and shall be exempt
16 from chapter 76.

17 § -3 Powers, generally; exemptions. (a) The fuel
18 authority shall have all the powers necessary to carry out its
19 purposes, including the powers to:

20 (1) Sue and be sued;

21 (2) Have a seal and alter the same at its pleasure;



- 1 (3) Make and execute, enter into, amend, supplement, and
2 carry out contracts and all other instruments
3 necessary or convenient for the exercise of its powers
4 and functions under this chapter;
- 5 (4) Make and alter bylaws for its organization and
6 internal management;
- 7 (5) Adopt rules under chapter 91 necessary to effectuate
8 this chapter in connection with the operations,
9 properties, and facilities of the fuel authority;
- 10 (6) Through its chief executive officer, appoint officers,
11 agents, and employees, prescribe their duties and
12 qualifications, and fix their salaries, without regard
13 to chapter 76;
- 14 (7) Issue revenue bonds in the name of the fuel authority
15 subject to the approval of the legislature; provided
16 that all revenue bonds shall be issued pursuant to
17 part III, chapter 39;
- 18 (8) Pledge or assign all or any part of the receipts and
19 revenues of the fuel authority for purposes of meeting
20 bond liabilities;
- 21 (9) Provide imported gasoline and diesel fuel to the
22 public;



- 1 (10) Deposit any moneys of the fuel authority in any
- 2 banking institution within or without the state, and
- 3 appoint one or more persons to act as custodians of
- 4 the moneys of the fuel authority for the purpose of
- 5 making deposits;
- 6 (11) Prepare or cause to be prepared development plans for
- 7 storage and distribution facilities;
- 8 (12) Set prices for wholesale gasoline and diesel fuel sold
- 9 by the fuel authority without regard to chapter 91;
- 10 (13) Acquire, construct, own, lease, hold, assign,
- 11 exchange, convey, clear, improve, install, equip, and
- 12 rehabilitate real, personal, or mixed property and
- 13 assign, exchange, transfer, convey, lease, sublease,
- 14 or encumber any transport vehicle, storage or
- 15 distribution facility, including by way of easements;
- 16 (14) Prepare, or cause to be prepared, plans,
- 17 specifications, designs, and estimates of cost for the
- 18 acquisition, construction, reconstruction,
- 19 improvement, installation, equipping, development, or
- 20 maintenance of any storage or distribution facility,
- 21 and from time to time modify the plans,
- 22 specifications, designs, or estimates;



- 1 (15) Engage the services of consultants on a contractual
2 basis for rendering professional and technical
3 assistance and advice;
- 4 (16) Call upon the attorney general for such legal services
5 as the fuel authority may require;
- 6 (17) Procure insurance against any loss in connection with
7 its property and other assets and operations in
8 amounts and from insurers as it deems desirable;
- 9 (18) Accept and expend gifts or grants in any form from any
10 public agency or from any other source;
- 11 (19) Promote and market the sale of the wholesale gasoline
12 and diesel fuel imported by the fuel authority and
13 develop programs that assist sales to independent
14 retail gas service stations in Hawaii by assessing the
15 needs of these stations and providing coordination to
16 overcome any obstacles to sale;
- 17 (20) Finance, conduct, assist, or cooperate in financing to
18 enable the building, leasing, purchase, or sale of gas
19 stations to independent retail gas service station
20 owners that can sell gasoline sold by the fuel
21 authority, by making and entering into contracts and
22 other appropriate arrangements, including the



1 provision of loans, start-up and expansion capital,
2 loan guaranty, loans convertible to equity, equity
3 charged and received by the fuel authority, and other
4 forms of assistance, if the board determines that the
5 retail market does not adequately offer the reasonably
6 priced gasoline and diesel fuel provided by the fuel
7 authority to the public;

8 (21) Provide advice, technical and marketing assistance,
9 support, and promotion to enterprises in which
10 investments have been made;

11 (22) Acquire, hold, and sell qualified securities;

12 (23) Consent, subject to the provisions of any contract
13 with noteholders or bondholders, whenever the fuel
14 authority deems it necessary or desirable in the
15 fulfillment of the purposes of this chapter, to the
16 modification, with respect to rate of interest, time
17 of payment of any installment of principal or
18 interest, or any other terms, of any contract or
19 agreement of any kind to which the fuel authority is a
20 party;

21 (24) Invest any funds held in reserves or sinking funds, or
22 any funds not required for immediate disbursement, in



1 such investments as may be lawful for fiduciaries in
2 the state; and

3 (25) Do any and all things necessary or convenient to carry
4 out its purposes and exercise the powers given and
5 granted in this chapter.

6 (b) The fuel authority shall be exempt from chapter 103D.

7 § -4 **Contracts for services necessary for management**
8 **and operation of authority.** The fuel authority may contract
9 with others, public or private persons, for the provision of all
10 or a portion of the services necessary for the management and
11 operation of the authority. The fuel authority shall have the
12 power to use all appropriations, grants, contractual
13 reimbursements, and all other funds not appropriated for a
14 designated purpose to pay for the proper general expenses and to
15 carry out the purposes of the authority.

16 § -5 **Use of public lands.** The governor may set aside
17 available public lands to the fuel authority for the purposes
18 specified in this chapter; provided that the setting aside would
19 not impair any covenant between the State or any department or
20 agency thereof and holders of any bonds issued by the State or
21 such department or agency thereof. The fuel authority also may



1 lease available state lands from the department of land and
2 natural resources.

3 § -6 **Hawaii fuel authority revolving fund.** There is
4 established in the state treasury a fund to be known as the
5 Hawaii fuel authority revolving fund for the purpose of paying
6 for the costs of operating the fuel authority as set forth in
7 this chapter, including meeting any debt service requirements.
8 All moneys generated as profit from the operations of selling
9 imported gasoline and diesel fuel to gas stations in the state
10 shall be deposited into the Hawaii fuel authority revolving
11 fund. Revenues provided in this section shall be at least
12 sufficient to pay the costs of operation of the fuel authority.

13 § -7 **Alternative energy special fund.** There is
14 established in the state treasury the alternative energy special
15 fund, to be administered by the department of business, economic
16 development, and tourism. One cent from the wholesale price of
17 each gallon of gasoline and diesel fuel sold by the fuel
18 authority shall be deposited in the alternative energy special
19 fund.

20 Moneys in the alternative energy special fund shall be
21 expended by the department to provide financial assistance to



1 public agencies and private entities involved in addressing
2 transportation issues such as traffic congestion.

3 The department shall adopt rules in accordance with chapter
4 91 for the purposes of this section.

5 § -8 **Compliance with federal, state, and county fuel**
6 **taxes.** All revenues and receipts derived by the import and sale
7 program of the fuel authority shall comply with federal, state,
8 and county fuel taxation requirements.

9 § -9 **Annual reports.** The fuel authority shall report
10 annually to the legislature twenty days prior to the convening
11 of the regular session, which report shall include:

- 12 (1) An itemized account of the income to and the
13 expenditure from the fuel authority revolving fund
14 during the previous year;
- 15 (2) An itemized account of the income to and the
16 expenditure from the alternative energy special fund
17 during the previous year; and
- 18 (3) The impact of the wholesale price of gasoline and
19 diesel fuel sold by the fuel authority on the
20 wholesale or retail price of gasoline and diesel fuel
21 within the state."



1 PART III

2 SECTION 3. Section 243-5, Hawaii Revised Statutes, is
3 amended to read as follows:

4 **"§243-5 County fuel tax.** The amount of the "county of
5 Hawaii fuel tax", "city and county of Honolulu fuel tax",
6 "county of Maui fuel tax", and "county of Kauai fuel tax",
7 respectively, shall be determined by resolution of the county or
8 the city council of each county adopted in the manner provided
9 by law relating to resolutions involving the expenditure of
10 public money~~[-]~~; provided that the county or city council may
11 increase the tax only by an affirmative vote of two-thirds of
12 the members to which each council is entitled. The amount fixed
13 by the resolution may be, per gallon, one or more cents or a
14 fraction of a cent or both, or it may be zero. The amount fixed
15 for alternative fuels may be proportional to the energy contents
16 of the fuels, as determined by their lower heating values, times
17 one-half. No resolution shall be adopted until the county or
18 the city council shall conduct a public hearing on the amount of
19 tax proposed. Public notice of the hearing shall be given in
20 the county at least twice within a period of thirty days
21 immediately preceding the date of hearing. If the resolution is
22 adopted, it shall take effect on the first day of the second



1 authority to be administered by the fuel authority. The request
2 shall include necessary proposed legislation.

3 PART VI

4 SECTION 6. The Hawaii fuel authority, with the approval of
5 the director of finance and the governor, is authorized pursuant
6 to part III, chapter 39, Hawaii Revised Statutes, to issue
7 revenue bonds in an aggregate principal amount not to exceed
8 \$, at such times and in such amounts as it deems
9 advisable for the purpose of purchasing, leasing, or making
10 capital improvements to build, construct, or convert facilities
11 for use as fuel storage tanks or distribution facility systems
12 for gasoline and diesel fuel purchased by the Hawaii fuel
13 authority on each island, to allow the authority to store
14 imported gasoline and diesel fuel on each island and distribute
15 reasonably priced gasoline and diesel fuel to independent retail
16 gas service stations within the state.

17 The proceeds of such revenue bonds shall be deposited into
18 the Hawaii fuel authority revolving fund created in section
19 -6, Hawaii Revised Statutes.

20 The revenue bonds authorized under this Act shall be issued
21 pursuant to part III, chapter 39, Hawaii Revised Statutes.



H.B. NO. 1494

1 The principal of, premium, if any, and interest on the
2 revenue bonds shall be payable from the revenues and receipts
3 collected or to be collected by the Hawaii fuel authority
4 generally.

5 SECTION 7. There is appropriated out of the revenue bond
6 proceeds authorized by this Act the sum of \$ or so much
7 thereof as may be necessary for fiscal year 2007-2008 and the
8 sum of \$ or so much thereof as may be necessary for
9 fiscal year 2008-2009 to carry out the purposes of this Act.

10 The sums appropriated shall be expended by the Hawaii fuel
11 authority.

12 SECTION 8. The authorization to issue revenue bonds under
13 this Act shall lapse on June 30, 2012.

14 PART VII

15 SECTION 9. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 10. This Act shall take effect on July 1, 2007.

18

INTRODUCED BY: Philip B. Lee

JAN 23 2007



Report Title:

Hawaii Fuel Authority; Establishment

Description:

(1) Establishes the Hawaii Fuel Authority to deliver gasoline and diesel fuel to Hawaii residents at prices comparable to the mainland.

(2) Repeals Chapter 486J, Hawaii Revised Statutes.

(3) Authorizes the issuance of revenue bonds for the construction or purchase of storage tanks and distribution systems for gasoline and diesel fuel by the Authority on each island.

(4) Requires a two-thirds vote of the city or county council when increasing county fuel taxes.

