
A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

1 SECTION 1. Section 196-11, Hawaii Revised Statutes, is
2 amended by amending the definition of "energy-savings
3 performance contract" to read as follows:
4 "~~["Energy savings]~~ "Energy performance contract" ~~[means an~~
5 ~~agreement for the provision of energy services and equipment,~~
6 ~~including building energy conservation enhancing retrofits and~~
7 ~~alternate energy technologies, in which a private sector person~~
8 ~~or company agrees to finance, design, construct, install,~~
9 ~~maintain, operate, or manage energy systems or equipment to~~
10 ~~improve the energy efficiency of, or produce energy in~~
11 ~~connection with, a facility in exchange for a portion of the~~
12 ~~cost savings, lease payments, or specified revenues including~~
13 ~~utility rebates and any other available incentives, and the~~
14 ~~level of payments is made contingent upon the verified energy~~
15 ~~savings, energy production, avoided maintenance, avoided energy~~
16 ~~equipment replacement, or any combination of the foregoing~~
17 ~~bases.]~~ shall have the same meaning as in section 36-41(d), and



1 shall additionally include commissioning and retro-
2 commissioning."

3 SECTION 2. Section 196-21, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) Notwithstanding any law to the contrary relating to
6 the award of public contracts, any agency desiring to enter into
7 an [~~energy savings~~] energy performance contract shall do so in
8 accordance with the following provisions:

9 (1) The agency shall issue a public request for proposals,
10 advertised in the same manner as provided in chapter
11 103D, concerning the provision of energy-efficiency
12 services or the design, installation, operation, and
13 maintenance of energy equipment. The request for
14 proposals shall contain terms and conditions relating
15 to submission of proposals, evaluation, and selection
16 of proposals, financial terms, legal responsibilities,
17 and other matters as may be required by law and as the
18 agency determines appropriate;

19 (2) Upon receiving responses to the request for proposals,
20 the agency shall select the most qualified proposal or
21 proposals and may base its determination on the basis
22 of the experience and qualifications of the proposers,



1 the technical approach, the financial arrangements,
2 the overall benefits to the agency, or other factors
3 determined by the agency to be relevant and
4 appropriate;

5 (3) The agency thereafter may negotiate and enter into an
6 [~~energy savings~~] energy performance contract with the
7 person or company whose proposal is selected as the
8 most qualified based on the criteria established by
9 the agency;

10 (4) The term of any [~~energy savings~~] energy performance
11 contract entered into pursuant to this section shall
12 not exceed [~~fifteen~~] twenty years;

13 (5) Any [~~energy savings~~] energy performance contract may
14 provide that the agency ultimately shall receive title
15 to the energy system being financed under the
16 contract; and

17 (6) Any [~~energy savings~~] energy performance contract shall
18 provide that total payments shall not exceed total
19 savings."

20 SECTION 3. Section 196-22, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§196-22 State energy projects.** State energy projects may
2 be implemented under this chapter with the approval of the
3 comptroller and the director of finance[~~—Notwithstanding~~
4 ~~section 36-41 or 196-21, the comptroller or the senior agency~~
5 ~~official of the department of accounting and general services,~~
6 ~~along with the director of finance, may exempt a state energy~~
7 ~~project from the advertising and competitive bidding~~
8 ~~requirements of section 36-41 or 196-21 and chapter 103, if the~~
9 ~~comptroller deems exemption appropriate for energy projects with~~
10 ~~proprietary technology or necessary to meet the goals of the~~
11 ~~legislature.] pursuant to section 103D-208. In addition, this
12 section shall be construed to provide the greatest possible
13 flexibility to agencies in structuring agreements so that
14 economic benefits and existing energy incentives may be used and
15 maximized, and financing and other costs to agencies may be
16 minimized. The specific terms of [~~energy savings~~] energy
17 performance contracting under section 36-41 may be altered if
18 deemed advantageous to the agency and approved by the director
19 of finance and the [~~senior agency official.~~] comptroller."~~

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Energy Resources

Description:

Replaces definition of "energy-savings performance contract" with "energy performance contract" with the addition of commissioning and retro-commissioning; extends the maximum term of an energy performance contract from fifteen to twenty years; allows the state procurement officer to exempt a state energy project from advertising and competitive bidding requirements.
(SD1)

