



GOV. MSG. NO. 925

EXECUTIVE CHAMBERS
HONOLULU

July 9, 2008

LINDA LINGLE
GOVERNOR

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: House Bill No. 2661 HD2 SD2 CD1

On July 8, 2008, House Bill No. 2661, entitled "A Bill for an Act Relating to Special Purpose Revenue Bonds to Assist Industrial Enterprises" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to authorize the issuance of up to \$38 million in special purpose revenue bonds to Hui Mana 'Oam'o for a renewable energy project.

Special purpose revenue bonds are issued by the State Department of Budget and Finance on behalf of private entities who are engaged in a legitimate public purpose. The State Constitution enumerates seven such purposes. These bonds do not count against the indebtedness of the State of Hawaii and the revenues generated by the project are responsible for paying the debt to retire the bonds. Depending upon the nature of the activity, these bonds may qualify for federal and State tax exemptions, thus affording a lower interest rate to the entity who will use the funds.

This bill raises several concerns. First, as indicated by the Attorney General, bonds issued on behalf of Hui Mana 'Oam'o would not likely qualify for a federal tax exemption because these bonds exceed the threshold for a "small issuance" set in the Internal Revenue Code and do not meet the federal large issuance requirement that the utility must have been in operation prior to 1997. Thus, it is unclear whether a significant interest rate advantage will be gained by issuing special purpose revenue bonds, as opposed to a standard corporate borrowing.

Second, the project proposed to be funded using these moneys has only been described in general terms. While I am a strong supporter of renewable energy projects, significantly greater details will need to be provided before the State Department of Budget and Finance can perform the required due diligence that is undertaken prior to the issuance of these bonds.

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For the foregoing reasons, I allowed House Bill No. 2661 to become law as Act 237,
effective July 8, 2008, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Lingle", written in a cursive style.

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST INDUSTRIAL ENTERPRISES.

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

1 SECTION 1. The legislature finds that it is in the public
2 interest to encourage the development of facilities to convert
3 renewable energy resources into electrical energy to be made
4 available for consumption by the general public. The
5 legislature further finds that Hui Mana 'Oma'o is engaged in the
6 development of facilities to convert potential renewable energy
7 resources into electrical energy to be made available for
8 consumption by the general public. The legislature finds that
9 such encouragement is urgently needed on the island of Oahu,
10 where more than \$2,000,000 is spent daily on imported fossil
11 fuels for the generation of electricity.

12 SECTION 2. The legislature finds and declares that the
13 issuance of special purpose revenue bonds under this Act is in
14 the public interest and for the public health, safety, and
15 general welfare.

16 SECTION 3. Pursuant to part V, chapter 39A, Hawaii Revised
17 Statutes, the department of budget and finance, with the



1 approval of the governor, is authorized to issue special purpose
2 revenue bonds in a total amount not to exceed \$38,000,000, in
3 one or more series, for the purpose of assisting Hui Mana 'Oma'ō
4 or an enterprise or commercial entity in which Hui Mana 'Oma'ō
5 possesses a vested equity interest, for establishment of
6 facilities to convert renewable energy resources into electrical
7 energy. The legislature hereby finds and determines that the
8 combining of two or more intermittent renewable energy resources
9 for the purpose of enhancing the reliability of the resulting
10 electrical energy produced constitutes a project as defined in
11 part V, chapter 39A, Hawaii Revised Statutes, and the financing
12 thereof is assistance to an industrial enterprise.

13 SECTION 4. The special purpose revenue bonds and the
14 refunding special purpose revenue bonds issued under this Act
15 shall be issued pursuant to part V, chapter 39A, Hawaii Revised
16 Statutes, relating to the power to issue special purpose revenue
17 bonds to assist industrial enterprises.

18 SECTION 5. The department of budget and finance is
19 authorized, from time to time, including times subsequent to
20 June 30, 2013, to issue special purpose revenue bonds in
21 whatever principal amounts the department shall determine to be
22 necessary to refund the special purpose revenue bonds authorized



