



GOV. MSG. NO. 821

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 15, 2009

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

Dear Madam President and Members of the Senate:

I am transmitting herewith SB50 SD1 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB50 SD1 HD2 CD1

A BILL FOR AN ACT
RELATING TO RENEWABLE ENERGY
PRODUCERS.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 15, 2009

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 50

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 50, entitled "A Bill for an Act Relating to Renewable Energy Producers."

The purpose of this bill is to create a new section of Chapter 171, Hawaii Revised Statutes, setting forth terms and conditions for leases of public lands to renewable energy producers.

While it is important that the use of public lands, particularly when they are leased without a public auction, are handled in a transparent, fair, and standard manner, this bill places additional burdens on a subset of lessees, namely renewable energy producers, that is burdensome and counter to the clean renewable energy goals of this state.

Specifically, this bill would require the Board of Land and Natural Resources, when they receive an application from a firm or entity that wishes to site a renewable energy project on public lands, to conduct not less than two public hearings on the island where the public land is located.

The Board already follows a well-established process for discussion and decision-making on actions before it that abides by the open meeting provisions of Chapter 92. To saddle renewable energy projects with additional hearings requirements adds costs and delays and treats these projects in an adverse fashion, compared to similar applications for use of public lands.

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Further, it should be remembered that the approval process for renewable energy projects currently provides opportunities for public comment at both the State and county level. For example public hearings are required prior to a project receiving an incidental take license, for a conservation district use permit, for a water quality certification, for a non-point pollution discharge permit, for a water use permit, for a special use permit, for a special management area permit, and for a shoreline setback permit. Additionally, projects that use public lands usually prepare an environmental assessment that has a public comment component.

Of additional concern, this bill requires a proposed renewable energy project to publicly disclose their financing plan, business concepts, and conceptual plan. Understandably, entities pursuing these projects, who have invested their own resources into the endeavor, are concerned that public disclosure of sensitive business data could place them at a competitive disadvantage.

The Board of Land and Natural Resources understands there may be times when more than one entity is interested in the same public lands. It is currently within their purview to ensure a fair and open airing for all interested parties to make the best decision on behalf of the public. Complicating the process the Board must follow to make determinations on the use of public lands that will reduce the State's dependence on imported foreign oil is not in the best interests of the public.

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For the foregoing reasons, I am returning Senate Bill
No. 50 without my approval.

Respectfully,

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

LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY PRODUCERS.

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

1 SECTION 1. Chapter 171, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§171- Renewable energy producers; lease of public lands
5 without public auction. (a) The board may lease or renew a
6 lease of public lands to renewable energy producers, as defined
7 in section 171-95, without public auction only pursuant to a
8 public process that includes public notice under section 1-28.5
9 providing other interested renewable energy producers
10 opportunity to participate in the process; provided that nothing
11 in this section shall be construed to prevent the board from
12 conducting direct negotiations; provided further that the
13 renewable energy producer shall be required to submit as part of
14 the proposal for the board's evaluation, as assisted by the
15 department of business, economic development, and tourism, the
16 following:

17 (1) A timeline for completion of the project;



(2) A description of a financial plan for project

financing;

(3) A description of the conceptual design of the project;

(4) A description of the business concept for the project;

and

(5) A description of landscape and acreage requirements

including public and private lands.

Upon completion of the board's evaluation and determination to award or not award a lease to a renewable energy producer, the board shall prepare a report outlining the reasons for the decision.

(b) A lease to a renewable energy producer under this section shall not result in the involuntary termination of a lease of public land held by an existing lessee who is currently in compliance with the terms of the lease.

(c) To inform the public prior to the lease of public land or the renewal of a lease of public land for a proposed renewable energy project under this section, the department of land and natural resources shall conduct not less than two public hearings on the island where the public land to be leased for the proposed renewable energy project is located; provided that the notice of the hearing shall be published as provided in



1 section 1-28.5. The board shall prepare and distribute an
2 outline of the proposals for the renewable energy project and
3 receive testimony from interested parties and the general public
4 at each public hearing.

5 (d) Any action taken by the board upon a proposal subject
6 to this section shall take place on the island where the public
7 land to be leased for the proposed renewable energy project is
8 located.

9 (e) For any lease issued pursuant to this section, the
10 renewable energy producer shall have the right of first refusal
11 upon renewal of the lease."

12 SECTION 2. New statutory material is underscored.

13 SECTION 3. This Act shall take effect upon its approval.

