
A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

1 SECTION 1. The legislature finds that there is a need to
2 coordinate the development of the State's energy resources to
3 preserve energy security by increasing the use of indigenous
4 renewable energy and reducing the State's overdependence on oil.
5 The legislature also finds that energy data and analysis are
6 essential to energy planning, policy development, and energy
7 emergency preparedness and response. In recent years, energy
8 markets, resources, systems and technologies, the variety and
9 types of fuels, environmental standards and specifications of
10 fuels, and policies related to energy and fuels have all
11 undergone dramatic changes. Current and future transitional
12 trends are expected to continue to influence Hawaii's energy
13 situation. These events reveal a critical need to develop the
14 State's technical and analytic capabilities and understanding of
15 Hawaii's energy resources, markets, and systems for effective
16 energy planning to achieve energy independence and increase the
17 State's energy security.

1 The legislature finds that the director of business,
2 economic development, and tourism, who serves as the state
3 energy resources coordinator pursuant to section 196-3, Hawaii
4 Revised Statutes, is responsible for coordinating the
5 development of the State's energy resources, policies, programs,
6 and plans.

7 The legislature finds that the energy data and analytic
8 functions of the state energy resources coordinator are
9 statutorily distinctive and different from, and not redundant to
10 other agencies' functions, such as the functions of the public
11 utilities commission, which focus primarily on monitoring
12 petroleum prices and industry profits, a state "watchdog" role.

13 The legislature, in Act 182, Session Laws of Hawaii 2007,
14 explicitly acknowledged the difference between the department of
15 business, economic development, and tourism's energy analysis
16 role and the public utilities commission's role to conduct
17 analysis with a focus on petroleum prices and petroleum industry
18 profits. The statute directed the department of business,
19 economic development, and tourism to use this data to effectuate
20 the purposes of chapters 125C and 196, Hawaii Revised Statutes,
21 and other relevant laws. The legislature recognized that the
22 use and analysis of energy and fuels data remain critical to

1 virtually all of the department of business, economic
2 development, and tourism's statutory energy program functional
3 requirements.

4 The legislature, therefore, finds that it is essential and
5 appropriate to include within chapter 196, Hawaii Revised
6 Statutes, that the department of business, economic development,
7 and tourism shall be responsible for developing and ensuring the
8 achievement of the State's energy policies, programs, and plans.

9 Therefore, the legislature finds that it is necessary to
10 amend chapter 196, Hawaii Revised Statutes, to:

- 11 (1) Update certain definitions for clarity and to take
12 into account the changes in the State's energy
13 resources, markets, and systems;
- 14 (2) Establish definitive policy guidance needed on the
15 nature and relationship of energy data analyses to the
16 State's energy program, and to clearly delineate
17 distinctive analytic roles and responsibilities of
18 state agencies conducting energy data functions; and
- 19 (3) Provide the statutory basis for a systematic state
20 energy analytic capacity and capability, which is
21 essential to support the energy resources
22 coordinator's role.

1 SECTION 2. Section 196-1, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§196-1 Findings and declaration of necessity.** The
4 legislature finds that:

5 (1) The global demand for petroleum and its derivatives
6 has resulted in a significant and fundamental market
7 escalation in oil prices, has caused severe economic
8 hardships throughout the State, and threatens to
9 impair the public health, safety, and welfare.

10 The State of Hawaii, with its near total
11 dependence on imported fossil fuel, is particularly
12 vulnerable to dislocations in the global energy
13 market. This ~~[is an anomalous]~~ situation~~[7]~~ can be
14 changed, as there are few places in the world so
15 generously endowed with natural energy: geothermal,
16 solar radiation, ocean temperature differential, wind,
17 biomass, waves, and currents~~[—]~~ which are all
18 potential non-polluting power sources;

19 (2) There is a real need for comprehensive strategic
20 ~~[comprehensive]~~ planning in the effort towards
21 achieving full ~~[utilization]~~ use of Hawaii's energy
22 ~~[resource programs]~~ resources and the most effective

1 allocation of energy resources throughout the State.
2 Planning is necessary and desirable in order that the
3 State may recognize and declare the major problems and
4 opportunities in the field of energy resources. Both
5 short-range and long-range planning will permit the
6 articulation of:

7 (A) Broad policies, goals, and objectives;

8 (B) Criteria for measuring and evaluating
9 accomplishments of objectives;

10 (C) Identification and implementation of programs
11 that will carry out such objectives; and

12 (D) A determination of requirements necessary for the
13 optimum development of Hawaii's energy resources.

14 Such planning efforts will identify present conditions
15 and major problems relating to energy resources, their
16 exploration, development, production, and
17 distribution. It will show the projected nature of
18 the situation and rate of change ~~[and]~~, present
19 conditions for the foreseeable future based on a
20 projection of current trends in the development of
21 energy resources in Hawaii~~[+]~~, and include initiatives
22 designed to fundamentally change how Hawaii consumes

1 energy by accelerating the production of renewable and
2 alternative energy, increasing energy efficiency,
3 developing and adopting new technologies, and ensuring
4 the State's energy security;

5 (3) The State requires an in-depth understanding of the
6 causes and effects of any transitional issues and
7 trends related to changes in the State's energy
8 resources, systems, and markets;

9 ~~[(+3)]~~ (4) There are many agencies of the federal, state,
10 and county governments in Hawaii, as well as many
11 private agencies[7] and a broad set of non-
12 governmental entities, engaged in, or expressing an
13 interest in, various aspects of the exploration,
14 research, distribution, transportation, storage,
15 conservation, and production of all forms of energy
16 resources in Hawaii. Some of these agencies include
17 the University of Hawaii[7]; the department of land
18 and natural resources[7]; the department of business,
19 economic development, and tourism[7]; the division of
20 consumer advocacy[7]; the public utilities commission;
21 the state civil defense agency; the federal energy
22 office[7]; and various county agencies, as well as

1 ~~[the oil companies, gas stations, and other private~~
2 ~~enterprises;]~~ Hawaii's energy and energy-related
3 companies; and

4 ~~[(4)]~~ (5) There is ~~[immediate]~~ an ongoing need in this
5 State to coordinate the efforts of ~~[all these~~
6 ~~agencies;]~~ statewide industry and government energy
7 interests; maintain the technical capability and
8 adequate capacity to quantitatively and qualitatively
9 evaluate, analyze, develop, and coordinate
10 implementation of private and public sector energy
11 planning efforts; recommend market-based policies to
12 develop Hawaii's energy resources, systems, and
13 markets; establish and coordinate programs to preserve
14 and protect the State's energy security, maintain a
15 robust energy emergency preparedness program, and
16 effectuate the conservation of ~~[fuel;]~~ energy
17 resources to provide for the equitable distribution
18 thereof~~[;]~~; and to formulate plans for the development
19 and use of alternative energy sources. There is a
20 need for ~~[such]~~ coordination, capability, and capacity
21 so that there will be maximum conservation and
22 ~~[utilization]~~ use of energy resources in the State."

SECTION 3. Section 196-2, Hawaii Revised Statutes, is amended as follows:

1. By adding twelve new definitions to be appropriately inserted and to read:

"Agent" means a person who is designated by the coordinator as an authorized representative.

"Commission" means the public utilities commission.

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

"Distributor" means:

(1) Every person who refines, manufactures, produces, or compounds fuel in the State and sells it at wholesale or retail, or who uses it directly in the manufacture of products or for the generation of power;

(2) Every person who imports or causes to be imported into the State, or exports or causes to be exported from the State, any fuel;

(3) Every person who acquires fuel through exchanges with another distributor; and

(4) Every person who purchases fuel for resale at wholesale or retail rates from any person described in paragraph (1), (2), or (3).

1 "Electricity" means all electrical energy produced by
2 combustion of any fuel as defined in this section, or generated
3 or produced using wind, the sun, geothermal heat, ocean water,
4 falling water, currents, and waves, or any other source.

5 "Energy" means work or heat that is, or may be, produced
6 from any fuel or source whatsoever.

7 "Fuel" means fuels, whether liquid, solid, or gaseous,
8 commercially usable for energy needs, power generation, and
9 fuels manufacture that may be manufactured, grown, produced, or
10 imported into the State or that may be exported therefrom,
11 including petroleum and petroleum products and gases to include
12 all fossil fuel-based gases, coal tar, vegetable ferments,
13 biomass, municipal solid waste, biofuels, hydrogen, agricultural
14 products used as fuels and as feedstock to produce fuels, and
15 all fuel alcohols.

16 "Major energy marketer" means any person who sells energy
17 resources in amounts determined by the coordinator as having a
18 major effect on the supply of or demand for energy resources.

19 "Major energy producer" means any person who produces
20 energy resources in amounts determined by the coordinator as
21 having a major effect on the supply of or demand for energy
22 resources.

1 "Major energy transporter" means any person who transports
2 energy resources in amounts determined by the coordinator as
3 having a major effect on the supply of or demand for energy
4 resources.

5 "Major energy user" means any person who uses energy
6 resources in the manufacture of products or for the generation
7 of electricity in amounts determined by the coordinator as
8 having a major effect on the supply of or demand for energy
9 resources.

10 "Major fuel storer" means any person who stores fuels in
11 amounts determined by the coordinator as having a major effect
12 on the supply of or demand for energy resources."

13 2. By amending the definition of "energy resources" to
14 read:

15 "Energy resources" means [~~and includes fossil fuel,~~
16 ~~nuclear, geothermal, solar, hydropower, wind, and other means of~~
17 ~~generating energy.] fuels, whether liquid, solid, or gaseous,~~
18 commercially usable for energy needs, power generation, and
19 fuels manufacture, that may be manufactured, grown, produced, or
20 imported into the State or that may be exported therefrom,
21 including petroleum and petroleum products and gases, and all
22 fossil fuel-based gases, coal tar, vegetable ferments, biomass,

municipal solid waste, biofuels, hydrogen, agricultural products
used as fuels and as feedstock to produce fuels, and all fuel
alcohols. Energy resources also includes all electrical energy
produced by combustion of any fuel, or generated or produced
using wind, the sun, geothermal heat, ocean water, falling
water, currents, waves, or any other source."

SECTION 4. Section 196-4, Hawaii Revised Statutes, is
amended to read as follows:

"§196-4 Powers and duties. Subject to the approval of the
governor, the coordinator shall:

(1) Formulate plans, including objectives, criteria to
measure accomplishment of objectives, programs through
which the objectives are to be attained, and financial
requirements for the optimum development of Hawaii's
energy resources;

(2) Conduct systematic analysis of existing and proposed
energy resource programs, evaluate the analysis
conducted by government agencies and other
organizations and recommend to the governor and to the
legislature programs ~~[which]~~ that represent the most
effective allocation of resources for the development
of energy ~~[sources,]~~ resources;

- 1 (3) Formulate and recommend specific proposals, as
2 necessary, for conserving energy [~~and fuel,~~]
3 resources, including the allocation and distribution
4 thereof, to the governor and to the legislature;
- 5 (4) Assist public and private agencies in implementing
6 energy conservation and related measures;
- 7 (5) Coordinate the State's energy conservation and
8 allocation programs with that of the federal
9 government, other state governments, governments of
10 nations with interest in common energy resources, and
11 the political subdivisions of the State;
- 12 (6) Develop programs to encourage private and public
13 exploration and research of alternative energy
14 resources [~~which~~] that will benefit the State;
- 15 (7) Conduct public education programs to inform the public
16 of the energy resources situation, as it may exist,
17 from time to time and of the government actions taken
18 [~~thereto~~];
- 19 (8) Serve as consultant to the governor, public agencies,
20 and private industry on matters related to the
21 acquisition, [~~utilization~~] use, and conservation of
22 energy resources;

(9) Contract for services when required for the
implementation of this chapter;

(10) Review proposed state actions [~~which~~] that the
coordinator finds to have significant effect on energy
[~~consumption~~] resources and report to the governor
their effect on the energy conservation program, and
perform such other services as may be required by the
governor and the legislature;

(11) Prepare and submit an annual report and [~~such~~] other
reports as may be requested to the governor and to the
legislature on the implementation of this chapter and
all matters related to energy resources; [~~and~~]

(12) Adopt rules for the administration of this chapter
pursuant to chapter 91[~~7~~]; provided that the rules
shall be submitted to the legislature for review[~~7~~];
and

(13) Develop and maintain a comprehensive and systematic
quantitative and qualitative capacity to analyze the
status of energy resources, systems, and markets, both
in-state and those to which Hawaii is directly tied,
particularly in relation to the State's economy, and
to recommend, develop proposals for, and assess the

1 effectiveness of policy and regulatory decisions, and
2 conduct energy emergency planning."

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval.

Report Title:

Energy Resources; Power Generation Utilities, Transportation
Fuels; State Energy Resources Coordinator

Description:

Addresses deficiencies in Hawaii's energy resources coordination
statutes. Provides policy guidance to ensure adequate detail on
the nature and relationship of the energy data analysis
functions of the state energy resources coordinator and energy
program. (SD2)