

H.B. NO. 1043

A BILL FOR AN ACT

RELATING TO ENERGY ASSURANCE.

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

1 SECTION 1. Chapter 125C, Hawaii Revised Statutes, is
2 amended by adding to part I three new sections to be
3 appropriately designated and to read as follows:

4 "§125C- Information and analysis required for state
5 energy planning, energy assurance planning, and energy supply
6 risk assessment and resilience planning. (a) The department,
7 with its own staff and agents whom the director designates as
8 authorized representatives, shall use the information, including
9 confidential information, received from all sources solely to
10 effectuate the purposes of this chapter, chapter 127A, and
11 chapter 196.

12 (b) The director shall conduct systematic quantitative and
13 qualitative analyses of the State's energy resources that the
14 director determines are necessary to:

15 (1) Assess and report on any actual or potential energy
16 supply disruption or shortage that threatens to impair
17 the public health, safety, and welfare and to preserve
18 the lives and property of the people of the state;

H.B. NO. 1043

- 1 (2) Produce energy ecosystem assessments to determine
2 risks, vulnerabilities, criticalities,
3 interdependencies, impacts, consequences, and
4 mitigation strategies related to any actual or
5 potential emergency or disaster impacting the State;
- 6 (3) Develop an understanding of causes and effects of
7 transitional issues and trends related to changes in
8 the State's energy resources, systems, and markets;
- 9 (4) Establish and maintain baseline data and information
10 on Hawaii's statewide energy resources, systems, and
11 markets, and their relationships to energy investment
12 decisions and the economy in support of measures to
13 increase energy resiliency, reduce vulnerabilities,
14 and preserve Hawaii's energy security;
- 15 (5) Develop energy assurance and emergency response plans
16 and measures, which in the event of an actual energy
17 shortage or supply disruption, are used to determine
18 and recommend what, if any, emergency government
19 intervention may be necessary and appropriate, and to
20 implement and evaluate the effectiveness of such
21 emergency intervention while promoting informed,
22 transparent, and defensible decision making;

H.B. NO. 1043

1 (6) Produce other relevant energy analyses that the
2 director deems necessary to administer the energy
3 planning, energy emergency planning, energy assurance
4 planning, and energy security policies pursuant to
5 this chapter, and other activities in support of the
6 director's role and responsibilities pursuant to
7 chapters 127A and 196 and other relevant laws.

8 §125C- Confidential information. (a) All confidential
9 information received by the director shall be afforded all the
10 protections available under applicable law and shall be held in
11 confidence by the director and the director's staff and agents,
12 or aggregated for the purposes of dissemination in the event of
13 a shortage or state of emergency to the extent necessary in the
14 director's discretion to ensure confidentiality as authorized by
15 chapter 92F.

16 (b) The director and the director's staff and agents shall
17 preserve the confidentiality and protection of all information
18 received by the director to the extent authorized by law and, by
19 application and extension of any other agency's respective
20 safeguards, protect and prevent the unauthorized further release
21 of the information. Receiving agencies shall afford any shared

H.B. NO. 1043

1 information the protections from disclosure provided for under
2 chapter 92F.

3 (c) Unless otherwise provided by law, with respect to the
4 information determined confidential or exempt from disclosure
5 under section 92F-13 that the director obtains, purchases,
6 receives, or otherwise acquires, neither the governor nor the
7 director, nor the staff and agents thereof, shall do any of the
8 following:

- 9 (1) Use the confidential information for any purposes
10 other than the purposes for which it is acquired;
11 (2) Make any publication whereby the confidential
12 information furnished by any person can be identified;
13 or
14 (3) Permit any person other than the governor, the
15 director, the director's staff, and agents thereof to
16 examine any confidential information, individual
17 reports, or statements acquired."

18 §125C- Definitions. As used in this chapter, unless the
19 context otherwise requires:

20 "Agent" means a person who is designated by the director as
21 an authorized representative.

22 "Commission" means the public utilities commission.

H.B. NO. 1043

1 "Dealer" means any person engaged in the retail sale of
2 fuel in Hawaii.

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

5 "Distributor" means:

6 (1) Every person who refines, manufactures, produces, or
7 compounds fuel in the State and sells it at wholesale
8 or at retail;

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

12 (3) Every person who acquires fuel through exchanges with
13 another distributor; or

14 (4) Every person who purchases fuel for resale at
15 wholesale or retail from any person described in
16 paragraph (1), (2), or (3); provided that
17 "distributor" shall not include a marina, lessee
18 dealer-operated station, owner-operated station, or
19 other retailer that retails fuel only to end users or
20 the public.

21 "Director" means the director of business, economic
22 development, and tourism, who is the state energy resources

1 coordinator pursuant to section 196-3, and the governor's
2 authorized representative for energy.

3 "Electricity" means all electrical energy produced by
4 combustion of any fuel, or generated or produced using wind, the
5 sun, geothermal heat, ocean water, falling water, currents, and
6 waves, or any other source.

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

9 "Energy resources" means fuel, and also includes all
10 electrical or thermal energy produced by combustion of any fuel,
11 or generated or produced using wind, the sun, geothermal heat,
12 ocean water, falling water, currents, and waves, or any other
13 source.

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

H.B. NO. 1043

1 "Major energy marketer" means any person who sells energy
2 resources in amounts determined by the director as having a
3 major effect on the supplies of, or demand for, energy
4 resources.

5 "Major energy producer" means any person who produces
6 energy resources in amounts determined by the director as having
7 a major effect on the supplies of, or demand for, energy
8 resources.

9 "Major energy transporter" means any person who transports
10 energy resources in amounts determined by the director as having
11 a major effect on the supplies of, or demand for, energy
12 resources.

13 "Major energy user" means any person who uses energy
14 resources in the manufacture of products or for the generation
15 of electricity in amounts determined by the director as having a
16 major effect on the supplies of, or demand for, energy
17 resources.

18 "Major fuel storer" means any person who stores fuels in
19 amounts determined by the director as having a major effect on
20 the supplies of, or demand for, energy resources."

21 SECTION 2. Chapter 125C, Hawaii Revised Statutes, is
22 amended by amending its title to read as follows:

H.B. NO. 1043

"CHAPTER 125C

~~[PROCUREMENT, CONTROL, DISTRIBUTION AND SALE OF PETROLEUM
PRODUCTS]~~ ENERGY ASSURANCE AND FUEL SECURITY"

SECTION 3. Section 125C-1, Hawaii Revised Statutes, is amended to read as follows:

"§125C-1 Findings and purpose. The legislature finds that adequate supplies of ~~[petroleum products]~~ energy resources are essential to the health, welfare, and safety of the people of Hawaii, and that any ~~[severe disruption in petroleum product supplies]~~ actual or potential disruption or shortage of energy resources ~~for use~~ within the State ~~[would]~~ could cause grave hardship, pose a threat to the economic well-being of the people of the State, and have significant adverse effects upon public confidence and order and effective conservation of ~~[petroleum products.]~~ energy resources. The purpose of this chapter is to grant to the governor or the ~~[governor's authorized representative]~~ director the clear authority, when the governor by proclamation declares the existence of a state of emergency in the State or shortages of [petroleum] fuel products occur or are anticipated, to acquire and analyze information, including confidential information, to conduct systematic quantitative and qualitative analyses required for state energy planning, energy

H.B. NO. 1043

1 assurance planning, energy emergency planning, and energy supply
2 risk assessment and resilience. This authority allows the
3 governor or director to adequately plan and prepare for, respond
4 to, recover from, and mitigate against any actual or potential
5 energy supply disruption or shortage, and to preserve the
6 State's energy security. Another purpose of this chapter is to
7 control the distribution and sale of [~~petroleum~~] fuel products
8 in this State, to procure such products, and to impose rules
9 that will provide extraordinary measures for the conservation of
10 [~~petroleum~~] energy resources and the allocation of fuel products
11 and for [~~their~~] the distribution and sale of fuel in an orderly,
12 efficient, and safe manner."

13 SECTION 4. Section 125C-2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§125C-2 "Shortage" and "state of emergency" defined. As
16 used in this chapter, unless otherwise indicated by the context,
17 a "shortage" exists whenever the governor determines that there
18 is an increase in the demand for any [~~petroleum~~] fuel product or
19 there is a decrease in the available supply for the [~~petroleum~~]
20 fuel product in question, or both; and [~~such~~] the decrease in
21 the available supply of or increase in the demand for the
22 [~~petroleum~~] fuel product in question, or both, may cause a major

1 adverse impact on the economy, public order, or the health,
2 welfare, or safety of the people of Hawaii and may not be
3 responsibly managed within the [~~free~~] prevailing market
4 distribution system. As used in this chapter, unless otherwise
5 indicated by the context, a "state of emergency" means an
6 occurrence in any part of the State that requires efforts by
7 state government to protect property, public health, welfare, or
8 safety in the event of an emergency or disaster, or to reduce
9 the threat of an emergency or disaster, or to supplement the
10 local efforts of the county. Further, the governor may by
11 proclamation of a state of emergency in the State under section
12 127A-14 require [~~importers~~] major energy producers,
13 distributors, major energy marketers, major fuel storers, major
14 energy transporters, and major energy users of any [~~petroleum~~]
15 fuel or fuel product [~~or other fuel~~] to monitor and report to
16 the department [~~of business, economic development, and tourism]~~
17 relevant supply and demand data[-] and information, including
18 confidential information, on aspects of the state's energy
19 resources, systems, and markets. The governor shall review the
20 status of a shortage within one hundred twenty days after the
21 governor's initial determination of a shortage as defined under
22 this chapter; thenceforth, the governor shall conduct a review

H.B. NO. 1043

1 of the shortage to make a new determination every thirty days
2 until a shortage no longer exists. Further, the monitoring and
3 reporting authorities pursuant to a declared state of emergency
4 in the State shall terminate under the provisions contained in
5 section 127A-14(d)."

6 SECTION 5. Section 125C-3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§125C-3 Powers in a shortage [-] or state of emergency.**

9 When a shortage or a state of emergency in the State as defined
10 in section 125C-2 [~~exists,~~] has been declared by the governor,
11 the governor or the [~~governor's authorized representative,~~]
12 director, to plan and prepare for, respond to, recover from, and
13 mitigate against any actual or potential energy supply
14 disruption or shortage, to preserve the State's energy security,
15 and to ensure that [petroleum] fuel products and energy
16 resources are made available to the public in an orderly,
17 efficient, and safe manner, may:

- 18 (1) Control the retail distribution and sale of
19 [~~petroleum~~] fuel products by adopting rules that may
20 include, but are not limited to, the following
21 measures:

H.B. NO. 1043

- 1 (A) Restricting the sale of [~~petroleum~~] fuel products
2 to specific days of the week, hours of the day or
3 night, odd- and even-numbered calendar days, and
4 vehicles having less than a specified amount of
5 gasoline in their tanks, with exceptions for
6 certain designated geographical areas;
- 7 (B) Restricting sales of [~~petroleum~~] fuel products by
8 dealers to daily allocations, which shall be
9 determined by dividing the monthly allocation by
10 the number of selling days per month;
- 11 (C) Requiring dealers to post signs designating their
12 hours of operation and the sell-out of daily
13 allocation;
- 14 (D) Instituting a statewide [~~rationing~~] shortage
15 management plan; and
- 16 (E) Allowing for special handling for essential
17 commercial and emergency-user vehicles;
- 18 (2) Require that a percentage of [~~petroleum~~] fuel
19 products, not to exceed five per cent, be set aside to
20 alleviate hardship; provided that aviation gasoline
21 set aside shall not exceed ten per cent;

H.B. NO. 1043

- 1 (3) Purchase and resell or otherwise distribute
2 ~~[petroleum] fuel products[, and purchase and resell or~~
3 ~~otherwise distribute ethanol that is produced within~~
4 ~~the State and can be used as a substitute for~~
5 ~~petroleum products];~~
- 6 (4) Temporarily suspend for the duration of a shortage or
7 a state of emergency, standards that may affect or
8 restrict the use of a substitute fuel to meet energy
9 demand;
- 10 (5) Implement fuel shortage emergency response measures,
11 including state government supply enhancement, supply
12 management, regulatory waivers, and demand restraint
13 measures, to assure fuel supplies for essential public
14 service during a shortage or state of emergency;
- 15 (6) Acquire and analyze information, including
16 confidential information, to conduct systematic
17 quantitative and qualitative analyses required for
18 state energy planning, energy assurance planning,
19 energy emergency planning, and energy supply risk
20 assessment and resilience;
- 21 ~~[(4)]~~ (7) Receive, expend, or use contributions or grants
22 in money or property, or special contributions thereof

H.B. NO. 1043

1 for special purposes not inconsistent with this
2 chapter;
3 [~~5~~] (8) Borrow and expend moneys needed to exercise the
4 powers granted under this section;
5 [~~6~~] (9) Contract in the name of the State for the
6 purpose of implementing this chapter or any part
7 [~~thereof~~] hereof; and
8 [~~7~~] (10) Exercise the powers granted under this section
9 to the degree and extent deemed by the governor to be
10 necessary, including the temporary or indefinite
11 suspension of all or part of the measures taken, as
12 the governor deems appropriate."

13 SECTION 6. Section 125C-4, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§125C-4 Adopting, filing, and taking effect of rules.**

16 The governor or the [~~governor's authorized representative~~]
17 director shall adopt rules pursuant to chapter 91, to [~~insure~~]
18 ensure that [~~petroleum~~] fuel products and energy resources are
19 made available to the public in an orderly, efficient, and safe
20 manner, to become effective when a shortage, as defined in
21 section 125C-2, exists. If additional and unforeseen measures
22 are required to [~~insure~~] ensure that [~~petroleum~~] fuel products

H.B. NO. 1043

1 are distributed in an orderly, efficient, and safe manner, the
2 governor or the [~~governor's authorized representative~~] director
3 may proceed without prior notice or hearing or upon such
4 abbreviated notice and hearing as the governor finds practicable
5 to adopt additional rules authorized under this chapter with the
6 additional rules to be effective for a period of not longer than
7 one hundred twenty days without renewal. Any rule so adopted
8 may be amended or repealed by the [~~governor~~] director without
9 prior notice or hearing or upon abbreviated notice and hearing
10 prior to the expiration of the one hundred twenty-day period;
11 provided that no amendment shall extend the rule beyond the
12 original period of one hundred [~~and~~] twenty days. To be
13 effective after the one hundred twenty-day period, the rules
14 shall be adopted pursuant to chapter 91. Each rule adopted,
15 amended, or repealed shall become effective as adopted, amended,
16 or repealed upon approval by the governor and filing with the
17 lieutenant governor. Each rule in effect shall have the force
18 and effect of law, but the effect of each rule may be
19 temporarily or indefinitely suspended by the governor by written
20 declaration filed with the lieutenant governor. Each rule
21 temporarily suspended shall take effect again immediately upon
22 expiration of the suspension period. Each rule indefinitely

H.B. NO. 1043

1 suspended shall take effect immediately upon the filing with the
2 lieutenant governor of the written declaration by the governor
3 terminating the suspension."

4 SECTION 7. Section 125C-6, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~f~~]§125C-6[~~f~~] **Petition for adoption, amendment, repeal,**
7 **or suspension of rules.** Any interested person may petition the
8 governor or the [~~governor's authorized representative~~] director
9 requesting the adoption, amendment, repeal, or suspension of any
10 rule and stating reasons therefor. The governor or the
11 [~~governor's authorized representative~~] director shall prescribe
12 the form for the petitions and the procedures for their
13 submission, consideration, and disposition[~~7~~] and, within thirty
14 days after submission of the petition, shall either deny the
15 petition in writing, stating the governor's or the [~~governor's~~
16 ~~authorized representative's~~] director's reasons for the denial,
17 or grant the petition and adopt, amend, repeal, or suspend the
18 rule accordingly."

19 SECTION 8. Section 125C-8, Hawaii Revised Statutes, is
20 amended to read as follows:

H.B. NO. 1043

1 "**§125C-8 Personnel; delegation of powers.** (a) The
2 director is to fulfill and effectuate the purposes of this
3 chapter.

4 (b) The governor or director may appoint or employ
5 temporary boards, agencies, officers, employees, and other
6 persons, or any of them, for the purpose of carrying out the
7 provisions of this chapter. All such temporarily appointed or
8 employed officers and employees, whether or not employed by
9 contract, shall be exempt from and not subject to nor entitled
10 to the benefits of the provisions of chapters 76 and 88, or any
11 other law, collective bargaining agreement, executive order,
12 executive directive, or rule that is inapplicable to temporary
13 employees of the State."

14 SECTION 9. Section 125C-9, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "~~{}~~**§125C-9**~~{}~~ **Investigations, information collection, and**
17 **surveys.** The governor or the [~~governor's authorized~~
18 ~~representative~~] director may make investigations, collect
19 information, including confidential information, and conduct
20 surveys for the purpose of ascertaining facts to be used in
21 administering this chapter, and in making the investigations,
22 collection of the information, and conduct of the surveys, may

H.B. NO. 1043

1 require the making, filing, or keeping of applications,
2 schedules, records, reports, or statements, under oath or
3 otherwise, administer oaths, take evidence under oath, subpoena
4 witnesses, and require the production of books, papers, and
5 records. Witnesses shall be allowed their fees and mileage as
6 in cases in the circuit courts. The circuit court of any
7 circuit or judge thereof may enforce by proper proceedings the
8 attendance and testimony of any witness subpoenaed to appear
9 within the circuit, or the production of books, papers, and
10 records."

11 SECTION 10. Section 125C-10, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~f~~]\$125C-10[~~f~~] **Fraud; [~~misdemeanor~~.] penalties.** Any
14 person required by the governor or the [~~governor's authorized~~
15 ~~representative,~~] director, pursuant to [~~section 125C-9,~~] this
16 chapter, to make, keep, or file any application, schedule,
17 record, report, or statement, whether or not under oath, who
18 intentionally makes, files, or keeps a false or fraudulent
19 application, schedule, report, or statement or intentionally
20 conceals therein any material fact, and any person who in any
21 other manner intentionally deceives or attempts to deceive the
22 governor or the [~~governor's authorized representative~~] director

H.B. NO. 1043

1 with respect to any fact to be used in administering this
2 chapter, and any person who intentionally fails to observe and
3 comply with any rule [~~promulgated~~] adopted under this chapter,
4 shall be [~~guilty of a misdemeanor.~~] assessed a civil penalty of
5 not more than \$10,000 per violation."

6 SECTION 11. Chapter 125C, Hawaii Revised Statutes, is
7 amended by amending the title of part II to read as follows:

8 "PART II. **HARDSHIP SET-ASIDE AND ALLOCATION OF** [~~PETROLEUM~~]
9 **FUEL PRODUCTS DURING A SHORTAGE**"

10 SECTION 12. Section 125C-21, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§125C-21 Definitions.** As used in this chapter and for
13 the purposes of this part:

14 "[~~Petroleum~~] Fuel product" means any fuel subject to the
15 set-aside system described in this chapter, including heating
16 oils, [~~light and heavy diesel oil,~~] all classifications of
17 diesel fuels, motor gasoline[7] and all blends of motor gasoline
18 with other fuel products, propane, butane, residual fuel oils,
19 kerosene, naphtha, biodiesel, ethanol, suboctane motor fuel, and
20 aviation fuels used for emergency and essential intrastate air
21 transport services, but excluding all other aviation fuels.

H.B. NO. 1043

1 "Prime supplier" means any individual, trustee, agency,
2 partnership, association, corporation, company, municipality,
3 political subdivision, or other legal entity ~~[which]~~ that makes
4 the first sale of any ~~[liquid fossil]~~ fuel product into the
5 state distribution system for consumption within the State."

6 SECTION 13. Section 125C-22, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§125C-22 When set-aside required.** When a shortage or a
9 state of emergency as defined in section 125C-2 exists, all
10 prime suppliers shall set aside supplies of each ~~[petroleum]~~
11 fuel product for which there is a shortage. The amount set
12 aside shall be in accordance with ~~[the]~~ any rules adopted by the
13 ~~[state energy resources coordinator.]~~ director."

14 SECTION 14. Section 125C-23, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§125C-23 Set-aside system.** The ~~[state energy resources~~
17 ~~coordinator]~~ director shall adopt rules establishing a
18 ~~[petroleum]~~ fuel products set-aside system. The purpose of this
19 system shall be:

20 (1) The protection of public health, safety, and welfare;

H.B. NO. 1043

- 1 (2) The maintenance of public services, utilities, and
2 transportation, including emergency and essential
3 intrastate air and maritime transport services;
- 4 (3) The maintenance of critical agricultural and
5 aquaculture operations [~~including farming,~~
6 ~~horticulture, dairy, fishing,~~] and related services;
- 7 (4) The preservation of economically sound and competitive
8 industry, through the equitable acquisition and
9 distribution of [~~petroleum~~] fuel products; and
- 10 (5) The promotion of efficiency [~~and conservation,~~ with
11 minimum economic disruptions, during a shortage of
12 [~~petroleum~~] fuel products.

13 The rules establishing the set-aside system shall be adopted in
14 accordance with chapter 91."

15 SECTION 15. Section 125C-31, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~{}~~§125C-31~~{}~~ ~~Biennial state~~ State energy [~~emergency~~
18 ~~preparedness~~] assurance plan. (a) The department [~~of business,~~
19 ~~economic development, and tourism~~] shall prepare a comprehensive
20 and integrated [~~biennial~~] state energy [~~emergency preparedness~~]
21 assurance plan to be implemented in the event [~~of~~] of a state of
22 emergency, or in anticipation of, a change in the State's

H.B. NO. 1043

1 [petroleum] energy supply or demand situation that is judged by
2 the governor or director to be unmanageable by the [~~free~~
3 ~~market.~~] prevailing markets. The department [~~of business,~~
4 ~~economic development, and tourism~~] shall prepare a [~~biennial~~]
5 state energy [~~emergency preparedness~~] assurance plan [~~in every~~
6 ~~even-numbered year~~] in accordance with the following:

7 [~~(1) The biennial state energy emergency preparedness plan~~
8 ~~shall replace the energy emergency plan developed by~~
9 ~~the energy resources coordinator, who shall act as the~~
10 ~~governor's authorized representative under this~~
11 ~~chapter;~~

12 ~~(2)~~ (1) In preparing the [~~biennial~~] state energy
13 [~~emergency preparedness~~] assurance plan, the
14 department shall:

15 (A) Solicit input, comment, and review from [~~the~~
16 ~~governor's energy emergency preparedness advisory~~
17 ~~committee composed of representatives of federal,~~
18 ~~state, and county governments; private energy~~
19 ~~suppliers; consumer and other public interest~~
20 ~~groups; and the public at-large;] key
21 stakeholders, including public, private, and non-~~

H.B. NO. 1043

1 profit sector organizations at the county, state,
2 and federal level; and

3 (B) Establish [~~other~~] task forces and advisory
4 groups, as may be deemed necessary, to assist in
5 the preparation and review of the [~~biennial~~]
6 state energy [~~emergency preparedness~~] assurance
7 plan;

8 [~~(3)~~] (2) The [~~biennial~~] state energy [~~emergency~~
9 ~~preparedness~~] assurance plan shall be comprehensive
10 and encompassing, and shall integrate into its
11 analytic and planning framework the plans of electric
12 and gas utilities and other energy suppliers, relevant
13 state agencies, [~~including the department of~~
14 ~~transportation,~~] counties, and such other entities as
15 deemed appropriate; and

16 [~~(4)~~] (3) The [~~biennial~~] state energy [~~emergency~~
17 ~~preparedness~~] assurance plan shall include a review
18 and update of the previous [~~biennial~~] state energy
19 [~~emergency preparedness~~] assurance plan and [~~a review~~
20 ~~of the energy emergency plans prepared by the~~
21 ~~counties.~~] shall be prepared or updated as determined
22 by the director to be necessary to comport with

H.B. NO. 1043

1 changes in federal or state overall emergency
2 management policies and plans that significantly
3 affect the State's energy assurance plan or as
4 warranted by changes in Hawaii's energy security.

5 (b) The department shall prepare an energy emergency
6 communication plan, which shall be [~~updated biennially~~] part of
7 the state energy assurance plan and shall be consistent with
8 [~~the energy emergency preparedness~~] any other energy emergency
9 management plans prepared by the counties[-] and the State. The
10 energy emergency communication plan shall be used by the [~~State~~
11 and counties] department to communicate and otherwise coordinate
12 [~~state and county~~] actions taken in response to implementing the
13 [~~biennial~~] state energy [~~emergency preparedness~~] assurance
14 plan."

15 SECTION 16. Section 125C-32, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~+~~§125C-32~~-~~ **Biennial county** County energy emergency
18 **preparedness plans.** The mayor of each county, or the mayor's
19 authorized representative, shall [~~prepare a comprehensive~~] be
20 responsible for preparing a county energy emergency preparedness
21 plan. The plan shall be prepared in coordination with and be
22 consistent with the [~~biennial~~] state energy [~~emergency~~

H.B. NO. 1043

1 ~~preparedness]~~ assurance plan~~[7]~~ and shall be implemented in
2 coordination with the state energy [~~emergency preparedness]~~
3 assurance plan upon declaration of [~~an energy emergency by the~~
4 ~~governor.]~~ a shortage or a state of emergency. [~~Not later than~~
5 ~~September 30 of every even-numbered year, each county shall~~
6 ~~prepare and transmit to the director of business, economic~~
7 ~~development, and tourism the county's biennial county energy~~
8 ~~emergency preparedness plan.]"~~

9 SECTION 17. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 18. This Act shall take effect upon its approval.

12
13 INTRODUCED BY _____



14 BY REQUEST

JAN 23 2017

H.B. NO. 1043

Report Title:

Energy Assurance; Energy Resources; Energy Emergency Preparedness; Petroleum Shortage

Description:

Addresses deficiencies in Hawaii's fuel shortage response and energy emergency (energy assurance) statutes; provides policy guidance on preparing for, responding to, recovering from, and mitigating against any actual or potential energy supply disruption or shortage to preserve the State's energy security and to ensure that fuel products and energy resources are made available to emergency services and the public in an orderly, efficient, and safe manner.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO ENERGY ASSURANCE.

PURPOSE: To address deficiencies in the State's petroleum shortage response statutes; provide up-to-date policy guidance on data and analysis required to prepare for, respond to, recover from, and mitigate against any actual or potential energy supply disruption or shortage in order to preserve the State's energy security and to better ensure that fuel products and energy resources are made available to emergency services and the public in an orderly, efficient, and safe manner; provide protections for confidential information collected to effectuate these purposes; clarify powers of Governor and the Department of Business, Economic Development, and Tourism (DBEDT) director in an energy shortage or state of emergency.

The bill: (1) establishes chapter 125C, Hawaii Revised Statutes, as the enabling statute for the State's DBEDT energy assurance program's coverage of all forms of energy shortage, disruption, or emergency (not just petroleum), in line with the hazards, threats, and risks to the State's energy security and resilience of its energy ecosystem. These amendments are consistent with evolving federal, state, county, and private sector energy resources, emergency management, and energy assurance programs and plans; (2) specifies the more holistic and comprehensive information and analysis required for effective state energy planning, energy assurance planning, and energy supply risk assessment and resilience planning; (3) affords protections for any confidential information collected in effectuating the chapter; (4) provides consistent definitions of key terms; (5)

clarifies powers of the Governor and director in a shortage or state of emergency; (6) makes other amendments for clarity and consistency and to reflect current best practices to advance state level energy emergency doctrine and resilience planning.

MEANS: Add three new sections to part I of chapter 125C, amend the titles of chapter 125C and part II of chapter 125C, and amend sections 125C-1, 125C-2, 125C-3, 125C-4, 125C-6, 125C-8, 125C-9, 125C-10, 125C-21, 125C-22, 125C-23, 125C-31, and 125C-32, Hawaii Revised Statutes.

JUSTIFICATION: A comprehensive approach is needed to address major deficiencies in outdated state statutes related to procurement, control, distribution and sale of petroleum products in response to a governor determined shortage. In line with recommendations in the national Quadrennial Energy Review and many other recent federal and state strategic and operational guidance and initiatives, states need the capacity to better identify the potential for all types of energy disruptions (not just petroleum), need the appropriate information to both quantify the impacts of potential and actual disruptions and to develop comprehensive mitigation and response plans, which ensure a more rapid return to normal conditions after an emergency or disaster. This approach and authorities will assist the Energy Resources Coordinator (DBEDT Director), as the Governor's authorized representative, to better understand energy system vulnerabilities and consequences in order to make more informed decisions which contribute directly to a more secure and resilient energy ecosystem (systems, resources, and markets).

Amendments are necessary to provide authoritative policy support and functional guidance to meet the following critical

needs of the State: (1) regain and update the law's relevance, consistency, and adequacy as contingency policy and planning guidance to accommodate actual and expected changes in Hawaii's energy security and vulnerabilities stemming from significant changes in energy and fuel systems, resources, and markets; (2) update and align key provisions with relevant state overall emergency management laws, and energy assurance management policies and planning guidance, including requirements under Administrative Directive No. 15-01; (3) provide improvements and updates of the State's energy assurance policy guidance, an important authoritative basis for programmatic improvements, including departmental administrative rules; and (4) provide clarity on the need for, use of, and legal authority to collect and protect energy information.

Impact on the public: If these statutory changes are not made, certain legislatively mandated planning responsibilities and duties of the Energy Resources Coordinator related to preserving and protecting the State's energy security and maintaining a robust energy emergency preparedness program will continue to be severely hampered. This includes limits on the ERC's ability to develop and maintain a comprehensive and systematic quantitative and qualitative capacity to analyze the status of energy resources, systems, and markets in order to conduct energy emergency planning. Without this guidance and authority, the State's capabilities and capacity to prepare for, respond to, recover from, and mitigate against any actual or potential energy emergency, supply disruption, or shortage could be hindered, thereby causing a major adverse impact on the economy, public health, welfare, and safety of the people of Hawaii. These provisions do not directly impact any public activity.

Impact on the department and other agencies:
DBEDT considers approval of these changes to be essential to its overall mission, because the energy information and data analytic and energy assurance functions are critical components of the state energy office's mission in support of the Governor and the State Energy Resources Coordinator, which contribute significantly to other agencies' missions. These statutory changes are directly supportive of and relevant to both the emergency powers necessary to prepare for and respond to emergencies and disasters conferred upon the Governor and the mayors of the counties, and the emergency management and homeland security functions of the State under the Department of Defense.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: BED-120.

OTHER AFFECTED
AGENCIES: Attorney General, Commerce and Consumer Affairs, Public Utilities Commission, State Department of Defense, and State Department of Transportation.

EFFECTIVE DATE: Upon approval.