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# A BILL FOR AN ACT

RELATING TO BUILDINGS.

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

1           SECTION 1. The legislature finds that the State declared a  
2 climate emergency and is committed to reducing the emissions of  
3 greenhouse gases. The built environment generates forty per  
4 cent of the annual global carbon dioxide emissions, and  
5 buildings are typically operated inefficiently. For example,  
6 commercial buildings, on average, use thirty per cent of energy  
7 inefficiently.

8           The legislature further finds that various state and local  
9 governments, including the city and county of Honolulu, have  
10 passed laws that require measuring and tracking greenhouse gas  
11 emissions, as well as energy and water consumption from  
12 buildings. All jurisdictions with benchmarking laws have  
13 specified the use of the United States Environmental Protection  
14 Agency's ENERGY STAR Portfolio Manager measurement and tracking  
15 tool.

16           The ENERGY STAR Portfolio Manager is available at no cost  
17 to users and can be used in a secure online environment. Forty



1 per cent of commercial building spaces in the United States are  
2 already using ENERGY STAR Portfolio Manager, including thirty-  
3 five per cent of Fortune 500 corporations.

4 The purpose of this Act is to create a program that uses  
5 the ENERGY STAR Portfolio Manager to encourage state and county  
6 buildings to become more environmentally sustainable,  
7 particularly with respect to greenhouse gas emissions and energy  
8 and water consumption.

9 SECTION 2. Chapter 196, Hawaii Revised Statutes, is  
10 amended by adding a new part to be appropriately designated and  
11 to read as follows:

12 "PART . BUILDING BENCHMARKING PROGRAM

13 **§196-A Purpose.** The legislature finds that there exists a  
14 worldwide climate emergency. Greenhouse gas emissions from all  
15 sources of human activity must be reduced dramatically to keep  
16 the Earth livable. The legislature further finds that  
17 environmental sustainability also requires the efficient use of  
18 energy and water. The purpose of this part is to establish a  
19 sustainable building program to make buildings within the State  
20 more environmentally sustainable, particularly with respect to  
21 greenhouse gas emissions and energy and water consumption.



1           **§196-B Definitions.** As used in this part, unless the  
2 context otherwise requires:

3           "Aggregated whole-building data" means energy or water data  
4 that has been summed for an entire property, which may include a  
5 single occupant or a group of separately metered tenants.

6           "Benchmark" means to input and submit the total energy and  
7 water consumed for a property for the previous calendar year and  
8 other descriptive information for the property as required by  
9 the benchmarking tool.

10           "Benchmarking tool" means the United States Environmental  
11 Protection Agency's ENERGY STAR Portfolio Manager, or any  
12 additional or alternative tool adopted by the Hawaii state  
13 energy office, used to benchmark, track, and assess the energy  
14 and water use of certain properties relative to similar  
15 properties.

16           "Chief energy officer" means the chief energy officer of  
17 the Hawaii state energy office.

18           "Covered property" means a property that exceeds ten  
19 thousand square feet in gross floor area and is owned, leased,  
20 or otherwise controlled by the State or a county. "Covered  
21 property" does not include:



- 1           (1) Single family, duplex, triplex, and fourplex  
2           residential homes and related accessory structures, or  
3           any other residential building with fewer than five  
4           units;
- 5           (2) Any building with less than twenty thousand square  
6           feet in gross floor area, that is not otherwise part  
7           of a campus as described in paragraph (3) of the  
8           definition for "property" for the purposes of  
9           benchmarking;
- 10          (3) Properties classified as industrial per designated  
11          Standard Industrial Classification codes 20 through  
12          39;
- 13          (4) Properties owned by government bodies not subject to  
14          the authority of this part or governed by other  
15          chapters; and
- 16          (5) Other building types not meeting the purpose of this  
17          part, as determined by the chief energy officer.

18           "Energy" means electricity, natural gas, steam, or other  
19 product sold by a utility to a customer of a property, or  
20 renewable on-site electricity generation, for purposes of  
21 providing heating, cooling, lighting, or water heating, or for



1 powering or fueling other end-uses as recorded in the  
2 benchmarking tool.

3 "ENERGY STAR Portfolio Manager" means the tool developed  
4 and maintained by the United States Environmental Protection  
5 Agency to track and assess the relative energy performance of  
6 buildings.

7 "ENERGY STAR score" means the numeric rating generated by  
8 the ENERGY STAR Portfolio Manager as a measurement of a  
9 building's energy efficiency.

10 "Gross floor area" means the total property area, measured  
11 between the outside surfaces of the exterior walls of the  
12 building. "Gross floor area" includes all areas inside the  
13 building, including but not limited to lobbies, tenant areas,  
14 common areas, meeting rooms, break rooms, base level atriums,  
15 restrooms, elevator shafts, stairwells, mechanical equipment  
16 areas, basements, and storage rooms.

17 "Owner" means the state or county agency that owns, leases,  
18 or otherwise controls the covered property.

19 "Property" means:

20 (1) A single building;



1 (2) One or more buildings held in the condominium form of  
2 ownership and governed by a single board of directors;  
3 or

4 (3) A campus of two or more contiguous buildings that are  
5 owned and operated by the same party, have a single  
6 shared primary function, and are:

7 (A) Behind a common utility meter or served by a  
8 common mechanical or electrical system, such as a  
9 chilled water loop, that would prevent the owner  
10 from being able to easily determine the energy  
11 use attributable to each of the individual  
12 buildings; or

13 (B) Used primarily for:  
14 (i) A K-12 school;  
15 (ii) A hospital;  
16 (iii) A hotel;  
17 (iv) Multifamily housing; or  
18 (v) A senior care community.

19 "Shared benchmarking information" means information  
20 generated by the benchmarking tool and descriptive information  
21 about the physical property and its operational characteristics



1 that is shared with the Hawaii state energy office. "Shared  
2 benchmarking information" includes but is not limited to:

- 3 (1) Descriptive information, such as:
  - 4 (A) Property address;
  - 5 (B) Primary use;
  - 6 (C) Gross floor area;
  - 7 (D) Number of floors;
  - 8 (E) Number of building parking spaces or parking area  
9 in square feet;
  - 10 (F) Number of years the property has been ENERGY STAR  
11 certified and the last approval date, if  
12 applicable; and
  - 13 (G) Individual or entity responsible for the  
14 benchmarking submission; and
- 15 (2) Output information, such as:
  - 16 (A) Site and source energy use intensity;
  - 17 (B) Weather normalized site and source energy use  
18 intensity;
  - 19 (C) The ENERGY STAR score, where available;
  - 20 (D) Total annual greenhouse gas emissions;
  - 21 (E) Monthly energy use by fuel type;



- 1 (F) Indoor water use and water use intensity, based
- 2 on consumption per gross square foot;
- 3 (G) Outdoor water use, where available;
- 4 (H) Total water use;
- 5 (I) The ENERGY STAR Water Score, where available; and
- 6 (J) General comments section, if needed, to explain
- 7 the building's ENERGY STAR scores.

8 "Tenant" means a person or entity occupying or holding  
9 possession of a building, part of a building, or premises  
10 pursuant to a rental or lease agreement or through ownership of  
11 a unit within, or portion of, the building.

12 **§196-C Powers and duties of the Hawaii state energy**

13 **office.** The Hawaii state energy office shall:

- 14 (1) Receive, disburse, use, expend, and account for all
- 15 funds that are made available by the United States and
- 16 State for the purposes of this part;
- 17 (2) Provide support and assistance in the administration
- 18 of the sustainable buildings program;
- 19 (3) Review federal programs, federal permits, federal
- 20 licenses, and federal development proposals for
- 21 consistency with the sustainable buildings program;



- 1           (4) Facilitate public participation in the sustainable  
2           buildings program, including maintaining of a public  
3           advisory body to identify sustainable buildings  
4           problems and provide policy advice and assistance to  
5           the Hawaii state energy office;
- 6           (5) Prepare and periodically update a plan for use of  
7           building management funds to resolve problems and  
8           issues that are not adequately addressed by existing  
9           laws and rules;
- 10          (6) Advocate for agency compliance with this part;
- 11          (7) Monitor the enforcement activities of the state and  
12          county agencies responsible for the administration of  
13          the objectives and policies of this part;
- 14          (8) Prepare an annual report to the governor and  
15          legislature, including recommendations for any  
16          proposed legislation necessary to ensure agency  
17          compliance with the objectives and policies of this  
18          part and any guidelines enacted by the legislature;  
19          and
- 20          (9) Coordinate the implementation of the sustainable  
21          buildings program.



1           **§196-D Collecting and entering benchmarking data.** (a)

2 Each year, the owner of each covered property shall collect and  
3 enter all data needed to benchmark the entire property for the  
4 previous calendar year into the benchmarking tool in a manner  
5 that conforms to the latest guidance provided by the United  
6 States Environmental Protection Agency for use of the  
7 benchmarking tool. Aggregated whole-building data for the  
8 property's energy and water use shall be compiled using at least  
9 one of the following methods:

- 10           (1) Obtaining aggregated whole-building data from a
- 11                 utility;
- 12           (2) Collecting data from all tenants; or
- 13           (3) Reading a master meter.

14           (b) If the owner of a covered property does not have  
15 access to aggregated whole-building data, the owner shall  
16 request aggregated whole-building data from each utility that  
17 provides energy or water service to the property. When a  
18 utility does not provide aggregated whole-building data, the  
19 owner of a covered property shall request tenant energy and  
20 water data using a form provided by the Hawaii state energy  
21 office. Owners may request authorization from tenants for the

1 utility to share their data in an aggregated format with the  
2 owner. Each utility that provides energy or water service to a  
3 property shall, upon request, provide aggregated whole-building  
4 data to the owner of the property.

5 (c) Each nonresidential tenant located in a covered  
6 property shall, within thirty days of a request by the owner,  
7 provide all information that cannot otherwise be acquired by the  
8 owner and that is needed by the owner to comply with the  
9 requirements of this part.

10 (d) Nothing in this part shall be construed to permit an  
11 owner to disclose or use tenant energy usage data for any  
12 purpose except compliance with the requirements of this part,  
13 nor shall the reporting requirements of this part be construed  
14 to excuse owners from compliance with federal or state laws  
15 governing direct access to tenant utility data from the  
16 responsible utility.

17 (e) If the tenant of a covered property fails to provide  
18 information to the owner as provided in this part, the owner  
19 shall be considered in compliance with the reporting  
20 requirements of this part with respect to the building if:



1 (1) The owner proves that the owner has requested the  
2 tenant to provide the information specified in this  
3 section in a format as required by the Hawaii state  
4 energy office; and

5 (2) The owner has used the benchmarking tool for the  
6 building using all information otherwise available to  
7 the owner.

8 The Hawaii state energy office may provide alternate values as  
9 established by the office.

10 **§196-E Submitting a benchmarking report.** (a) For every  
11 covered property subject to this part, the owner shall annually  
12 submit to the chief energy officer an energy and water  
13 benchmarking report in an electronic format by means of the  
14 benchmarking tool, by the date specified in section 196-F.

15 (b) The information included in the benchmarking report  
16 shall include the data entered in the benchmarking tool and  
17 shared benchmarking information.

18 (c) The owner of each covered property shall enter data  
19 into the benchmarking tool such that the energy and water  
20 benchmarking report shall be based on an assessment of the



1 aggregated total energy and water consumed by the whole property  
2 for the entire calendar year being reported.

3 (d) Before submitting a benchmarking report, the owner  
4 shall run the data quality checker functions available within  
5 the benchmarking tool and verify that all data has been  
6 accurately entered into the tool. In order for the benchmarking  
7 report to be considered in compliance with this part, the owner  
8 shall correct all missing or incorrect information as identified  
9 by the data quality checker before submitting the benchmarking  
10 report to the chief energy officer.

11 (e) Once the owner learns that any information reported as  
12 part of the submission of the benchmarking report is inaccurate  
13 or incomplete, the owner shall amend the information reported  
14 within the benchmarking tool and provide the Hawaii state energy  
15 office with an updated benchmarking report within thirty days of  
16 learning of the inaccuracy.

17 **§196-F Benchmarking schedule.** (a) The owner of a covered  
18 property shall ensure that a benchmarking report for that  
19 property is generated, completed, and submitted to the Hawaii  
20 state energy office annually in accordance with the schedules  
21 and deadlines specified in this part.



1           (b) The initial benchmarking reports for each covered  
2 property shall be filed in accordance with subsection (e).  
3 Subsequent benchmarking reports for each covered property shall  
4 be due by June 1 of each year thereafter.

5           (c) Beginning no later than December 1, 2025, and every  
6 year thereafter, the Hawaii state energy office shall make  
7 available on a publicly accessible website an annual report  
8 based on the benchmarking reports received. The report shall  
9 include a summary of energy and water consumption statistics and  
10 an assessment of compliance rates, accuracy and issues affecting  
11 accuracy, changes across the portfolio over time, trends  
12 observed, and other information as determined by the chief  
13 energy officer.

14           (d) The Hawaii state energy office shall make a covered  
15 property's data transparency information available to the public  
16 beginning the year after the covered property is first required  
17 to submit a benchmarking report in accordance with the schedule  
18 pursuant to subsection (e). Subsequent data transparency  
19 information shall be made public each year thereafter.



1 (e) The initial reporting deadline shall be  
2 December 31, 2024, and the initial transparency year shall be  
3 2025.

4 **§196-G Benchmarking exemptions.** (a) The owner of a  
5 covered property shall be exempt from the requirements of  
6 section 196-E if the owner submits documentation to the Hawaii  
7 state energy office, in such a form and with such certifications  
8 as required by the office, establishing that the covered  
9 property met at least one of the following conditions for the  
10 calendar year to be benchmarked:

11 (1) The property did not have a certificate of occupancy  
12 or temporary certificate of occupancy for that full  
13 calendar year;

14 (2) The property had a physical occupancy rate of less  
15 than fifty per cent over at least ten months of that  
16 calendar year;

17 (3) The property was in foreclosure;

18 (4) A demolition permit for the entire property was issued  
19 during that year; provided that demolition work  
20 commenced, and legal occupancy was no longer possible,  
21 prior to the end of that year; or



1           (5) The property or building is solely occupied by the  
2           owner of the property and:  
3           (A) Is not offered for lease, rental, or similar  
4           commercial arrangement to any person or entity;  
5           or  
6           (B) The only persons or entities permitted to lease  
7           or rent the buildings have the same owner as the  
8           owner of the property; provided that the owner  
9           shall certify to the Hawaii state energy office  
10          that the exception under this subparagraph  
11          applies.

12          (b) The covered property's data transparency information  
13 shall not be publicly available for the reporting year if the  
14 owner submits documentation to the Hawaii state energy office,  
15 in such a form and with such certifications as required by the  
16 office, establishing that, due to special circumstances unique  
17 to the property, strict compliance with the provisions of this  
18 part would not be in the public interest.

19          (c) Any owner requesting an exemption pursuant to  
20 subsection (a) or (b) shall, by March 1 in the year for which  
21 the exemption is being requested, submit to the Hawaii state



1 energy office any documentation reasonably necessary to  
2 substantiate the request or otherwise assist the office in the  
3 exemption determination. Any exemption granted shall be limited  
4 to the submission of a benchmarking report or the public  
5 disclosure of data transparency information for which the  
6 request was made and shall not extend to past or future  
7 submittals.

8       **§196-H Maintenance of records.** (a) Owners shall maintain  
9 records as the Hawaii state energy office determines is  
10 necessary for carrying out the purposes of this part, including  
11 but not limited to the energy and water bills and reports or  
12 forms received from tenants or utilities. The records shall be  
13 retained for a period of three years. At the request of the  
14 Hawaii state energy office, the records shall be made available  
15 for inspection by the office.

16       (b) When a covered property is sold, the records and  
17 online benchmarking tool records shall be transferred to the new  
18 property owner, if the new property owner is another state or  
19 county agency.

20       (c) The Hawaii state energy office shall reserve the right  
21 to review records as the office deems necessary to evaluate the



1 efficacy of this part. Records shall be provided to the chief  
2 energy officer upon request.

3 **§196-I Compliance.** All state and county agencies shall  
4 ensure that their rules comply with the objectives and policies  
5 of this part and any guidelines enacted by the legislature.

6 **§196-J Rules.** The Hawaii state energy office may adopt  
7 rules in accordance with chapter 91 to carry out the purposes of  
8 this part."

9 SECTION 3. Section 196-71, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11 "(b) The Hawaii state energy office shall:

12 (1) Provide analysis and planning to actively develop and  
13 inform policies to achieve energy efficiency,  
14 renewable energy, energy resiliency, and clean  
15 transportation goals with the legislature, public  
16 utilities commission, state agencies, and other  
17 relevant stakeholders;

18 (2) Lead efforts to incorporate energy efficiency,  
19 renewable energy, energy resiliency, and clean  
20 transportation to reduce costs and achieve clean  
21 energy goals across all public facilities;



1 (3) Provide renewable energy, energy efficiency, energy  
 2 resiliency, and clean transportation project  
 3 deployment facilitation to assist private sector  
 4 project completion when aligned with state energy  
 5 goals; [~~and~~]

6 (4) Engage the private sector to help lead efforts to  
 7 achieve renewable energy and clean transportation  
 8 goals through the Hawaii clean energy initiative[~~-~~];  
 9 and

10 (5) Carry out the responsibilities for the building  
 11 benchmarking program, as specified in part \_\_\_\_\_."

12 SECTION 4. There is appropriated out of the general  
 13 revenues of the State of Hawaii the sum of \$ \_\_\_\_\_ or so  
 14 much thereof as may be necessary for fiscal year 2023-2024 and  
 15 the same sum or so much thereof as may be necessary for fiscal  
 16 year 2024-2025 for the sustainable buildings program established  
 17 by section 2 of this Act.

18 The sums appropriated shall be expended by the department  
 19 of business, economic development, and tourism for the purposes  
 20 of this Act.



1           SECTION 5. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

7           SECTION 6. In codifying the new sections added by section  
8 2 of this Act, the revisor of statutes shall substitute  
9 appropriate section numbers for the letters used in designating  
10 the new sections in this Act.

11           SECTION 7. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13           SECTION 8. This Act shall take effect on July 1, 3000.

14



**Report Title:**

Buildings; State and Counties; Hawaii State Energy Office;  
ENERGY STAR; Sustainable Buildings Program; Benchmarking Data;  
Reporting; Appropriation

**Description:**

Requires state and county agencies to process the aggregated  
energy and water data of certain properties through the federal  
ENERGY STAR Portfolio Manager and submit the benchmarking data  
to the Hawaii state energy office. Appropriates funds.  
Effective 7/1/3000. (HD1)

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not legislation or evidence of legislative intent.*

