

A Bill for an Act Relating to Political Subdivision Pollution Control Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The use of pollution control bond financing will be enhanced by the inclusion of authority to permit the political subdivision to enter into a "put or pay" type contract with respect to a solid waste disposal facility.

SECTION 2. Section 48E-1, Hawaii Revised Statutes, is amended by adding a new definition and amending the definition of "pollution control project" to read as follows:

"(6) "Pollution control project" means any property, or improvements or alterations to property, designed, acquired, constructed, installed, or modified by or for a political subdivision and certified as necessary or desirable by the state department of health to abate, control, reduce, treat, eliminate, or dispose of solid or liquid waste in a manner which provides for the recovery of energy, material resources, or both.

(10) "Legal title" means ownership of the project site either in fee or by having a long-term fifty-five year leasehold interest."

SECTION 3. Section 48E-5, Hawaii Revised Statutes, is amended to read:

"Sec. 48E-5 Project agreement. (a) Any project agreement entered into by the political subdivision shall contain provisions unconditionally obligating the project party to pay the political subdivision during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the pollution control project is used or occupied by the project party, in the form of rates, rentals, fees, charges, payments of installments of the purchase price, or otherwise, at such time or times and in such amount or amounts that will be at least sufficient:

- (1) To pay the principal, premium, if any, and interest on all revenue bonds issued to finance the costs of the pollution control project as and when the same becomes due;
- (2) To establish or maintain such reserves, if any, as may be required by the instrument authorizing or securing the revenue bonds;
- (3) To pay the fees and expenses of the paying agents and trustees for the revenue bonds;
- (4) To pay the expenses incurred by the political subdivision in administering the bonds or in carrying out the project or the project agreement; and
- (5) To pay any and all of the cost incurred by the political subdivision, directly or indirectly, in the operation, maintenance, and repair of the pollution

control project or to perform these functions at its own expense.

(b) Any project agreement entered into by the political subdivision may contain such provisions as the political subdivision deems necessary or desirable to obtain or permit the participation of the state and federal government in the pollution control project or in the financing of the costs thereof.

(c) A project agreement shall also provide that the political subdivision shall have all rights and remedies generally available at law or in equity to unpaid sellers or lessors, as the case may be, to re-enter and take possession of a pollution control project upon the breach or default by a project party of any term, condition, or provision of a project agreement.

(d) The political subdivision may extend or renew any project agreement or any other agreement related thereto, in accordance with the project agreement.”

SECTION 4. Chapter 48E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 48E- Contracts for liquid or solid waste disposal.** Any other law to the contrary notwithstanding, a political subdivision is authorized from time to time to contract with users or operators of a pollution control project established or to be established under this chapter with respect to the delivery of liquid or solid waste to such project for disposal. Such contracts may be included in a project agreement with a project party, may be for such periods as agreed upon by the parties, and without limiting the generality of the foregoing, may include (1) provisions for the delivery to such project of minimum amounts of liquid or solid waste and payments for the use of such project based on the delivery of such minimum amounts (which payments the political subdivision may be obligated to make, whether or not such minimum amounts are actually delivered to such project), (2) unit prices, which may be graduated, and (3) adjustments thereof. Such payments, unit prices, or adjustments need not be specifically stated in such contract but may be determined by formula if set forth therein. Such contracts may include provisions for arbitration and reasonable restrictions against other disposal by the political subdivision or by other public or private entities or persons over which such political subdivision shall have jurisdiction of the substances covered thereby while the contract is in force and disposal under the contract is practicable.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.*

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

(Approved May 22, 1980.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.