

ACT 312

S.B. NO. 1410

A Bill for an Act Relating to the Environment.

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

SECTION 1. The legislature finds that Act 324, Session Laws of Hawaii (SLH) 1991, established a comprehensive approach to integrated solid waste management in Hawaii. Codified as chapter 342G, Hawaii Revised Statutes (HRS), Act 324, among other things:

- (1) Created the office of solid waste management in the department of health to coordinate efforts relating to solid waste management;
- (2) Established the counties' responsibilities for the development of integrated solid waste management plans, under review and approval of the office of solid waste management;
- (3) Established statewide goals for waste reduction of 25 per cent by January 1995 and 50 per cent by January 2000; to be met through source reduction, recycling, and bioconversion;
- (4) Delegated the responsibility, within the office of solid waste management, for the development and support of programs aimed at achieving the waste reduction goals; and
- (5) Delegated the responsibility for the collection of household hazardous waste to the counties, while the disposal of the collected waste would be the responsibility of the state.

Federal law, 40 C.F.R Part 258, Subtitle D (1991), and chapter 342H, HRS, require the establishment of significantly more stringent solid waste facility management policies aimed at protecting and preserving the State's fragile environment. Regulations to implement these policies are scheduled to take effect in October 1993. To carry out those policies and insure proper design, operation, and closure of municipal solid waste facilities, the office must immediately expand its efforts in the areas of permitting, inspection, enforcement and environmental monitoring.

The legislature further finds that certain resources contained in the solid waste stream are difficult to extract due to market constraints. One of the materials most easily identified, yet difficult to process and market, has been identified as glass containers. Programs successfully developed and implemented at the local level must be expanded statewide in order to meet the goals of Act 324, SLH 1991, to provide equitable allocation of market benefits to all counties, and to develop the most efficient system of administering the program funding.

However, to implement chapters 342G and 342H, HRS, the legislature finds that additional funds are necessary. The counties that are responsible for implementing source reduction, recycling, and bioconversion activities mandated under chapter 342G, HRS, require State support to develop these new program activities. State programs mandated under chapter 342G, HRS, require coordination and assistance to ensure their success. The expansion of regulatory responsibilities under Subtitle D and chapter 342H, HRS, requires additional staff and training.

The legislature further finds that expansion of solid waste regulatory programs and the development of waste reduction activities to preserve the State's fragile land and limited resources merit the development of a dedicated and stable source of funding. Because county governments provide waste disposal services, the costs of waste disposal are largely hidden costs that consumers have not had to associate with direct cost of service. Moreover, due to the increased regulation of solid waste disposal facilities, the cost of waste disposal is expected to rise significantly. It is inequitable and inefficient for the general taxpayer to bear the financial burden of environmental protection and waste diversion.

It is the intent of the legislature to establish a system of funding to expand those operations of the office of solid waste management which support integrated solid waste management programs and activities, and to place the costs of those programs as directly as possible upon the waste generator.

The purpose of this Act is to provide funding to support solid waste management, statewide waste reduction, recovery, and diversion programs by:

- (1) Establishing an environmental management special fund;
- (2) Establishing a solid waste management surcharge of 25 cents per ton, payable into the environmental management special fund, for the office of solid waste management to expand its efforts in the area of environmental protection, and to promote and support state and county waste reduction, recovery, and diversion programs;
- (3) Authorizing the counties to assess a clearly identified surcharge based on partial costs of solid waste collection; and
- (4) Providing funds to improve environmental health programs by providing public outreach and education and training of department of health personnel.

SECTION 2. Chapter 342G, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . SOLID WASTE MANAGEMENT SURCHARGE

§342G- Solid waste collection surcharge. Each county may assess residential real property owners in their respective county an annual solid waste collection surcharge based on the partial costs of solid waste collection. Notice of this surcharge shall be included with the notice of assessment required by section 246-43.

§342G- Solid waste disposal surcharge. (a) There is established an initial solid waste management surcharge of 25 cents per ton of solid waste dis-

posed of within the State at permitted or unpermitted solid waste disposal facilities during the first two years of the program. The surcharge shall be paid by the person or entity doing the disposal. This surcharge shall be based on actual weight received or on volumetric assumptions as determined by the department in collaboration with the owner or operator of the facility prior to October 1, 1993. The owner or operator of the facility shall transfer all moneys collected from the surcharge to the department through a quarterly reporting and payment schedule that is developed by the department and that is transmitted to the owner or operator of the facility by October 1, 1993. Estimates of quarterly solid waste disposal shall be submitted prior to the first day of each quarter and the transfer of moneys collected shall occur within thirty days of the end of each quarter.

(b) The solid waste management surcharge shall become effective on January 1, 1994.

(c) Following two years of program operation, the department and the respective counties shall evaluate the effectiveness of the solid waste management efforts and the surcharge may be adjusted higher or lower based on that evaluation; however, in no case shall it exceed \$1.50 per ton. The department, in consultation with each of the counties, shall submit its findings and recommendations to the legislature not less than twenty days prior to the convening of the legislative session immediately following the two year period. Upon the receipt of the department's findings and recommendations, the legislature shall evaluate the effectiveness of the program and make a determination whether an adjustment of the assessment is warranted.

(d) The surcharge collected pursuant to this section shall be deposited into the environmental management special fund. All interest earned or accrued on moneys deposited in the fund shall become a part of the fund.

§342G- Establishment of the environmental management special fund. (a) There is created in the state treasury an environmental management special fund. The fund may receive legislative appropriations, grants and gifts.

(b) All moneys collected pursuant to sections 342G- shall be deposited into the environmental management special fund. All interest earned or accrued on moneys deposited into the fund shall become a part of the fund.

(c) The department shall expend moneys contained in the environmental management special fund to:

- (1) Partially fund the operating costs of the program including its regulatory functions and the development of waste reduction and diversion activities as mandated by chapter 342G;
- (2) Fund statewide education, demonstration, and market development programs, through direct contract with the counties and the department of business, economic development, and tourism, or under a grant program that may be developed under rules pursuant to chapter 91; and
- (3) Provide for annual training for municipal solid waste operators in compliance with 40 C.F.R. Part 258 and Hawaii Administrative Rules Title 11 Chapter 58 (Proposed Revision).

§342G- Administration of the environmental management special fund. (a) The department may adopt rules to administer the environmental management special fund. During the interim period until such rules are established, the department may distribute funding to the counties or the department of business, economic development, and tourism in the form of a contractual agreement pursuant to section 103-22.

(b) The office shall not award any grant or contract under this section to any county that has failed to comply with the conditions set forth in this part and any rules adopted pursuant thereto.

(c) Unexpended or unencumbered grant funds shall revert to the environmental management special fund at the end of the fiscal year following the year in which the funds were granted.”

SECTION 3. Chapter 342G, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“**§342G- Penalties.** Any person who violates any provision of this chapter or any rule adopted pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this section shall be considered a civil action.

§342G- Enforcement. The department of health shall enforce this chapter.”

SECTION 4. Section 342G-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Environmental management special fund” means the fund created by section 342G-

“Solid waste disposal facility” is any facility which receives solid waste for disposal through landfilling or incineration, and does not include facilities utilized for transfer, storage, processing for recycling or reuse, or bioconversion.””

SECTION 5. Section 342G-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The coordinator shall prepare and submit an annual report to each county, the director, the governor, and the legislature, twenty days prior to the convening of each regular session of the legislature, describing the activities of the office. The annual report shall [include] provide the information required in this chapter, including, but not limited to:

- (1) A summary of the [progress made toward] results achieved in meeting the state waste reduction goals, including the amounts of waste disposed of, diverted, and generated in the State, and the progress toward managing waste in consideration of the state solid waste management priorities;
- (2) [Updates on the progress of] Results achieved in county integrated solid waste management planning and the state plan[;], with timetables for completion and implementation;
- (3) [Actions taken to implement] Results achieved in implementing procurement programs, including the amount of recycled goods and materials purchased by the State and counties;
- (4) Total paper consumption by state and county agencies and [progress toward] results achieved with the office paper reduction goal [established];
- (5) [Actions] Results achieved by government agencies [to establish] in establishing office paper and other materials recovery programs;
- (6) [A review of state progress] Results achieved by state and county agencies in removing barriers to the development of recycling markets

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- and in developing markets and supporting businesses that use recovered materials;
- (7) A summary of [activities] results achieved by state and county agencies in the provision and execution of the statewide public awareness and education program;
 - (8) A summary of [actions taken] results achieved by agencies to improve energy efficiency and to reduce reliance on imported fuels in compliance with sections 226-18 and 226-52; [and]
 - (9) A summary and schedule of the key solid waste management [activities anticipated] goals and objectives planned for the following year at state and county levels[.]; and
 - (10) Revenues into and expenditures from the environmental management special fund during the previous fiscal year and projections for revenues and expenditures in the coming fiscal year.'

SECTION 6. The department of health is authorized to expend from the environmental management special fund the sum of \$400,000 for fiscal year 1993-1994, to carry out the purposes of this Act.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 8. This Act shall take effect on July 1, 1993.

(Approved June 21, 1993.)

Note

1. Edited pursuant to HRS §23G-16.5.