

**Session Laws of Hawaii
Passed By The
Eighteenth State Legislature
Special Session
1995**

ACT 2

S.B. NO. 12-S

A Bill for an Act Relating to the Clean Hawaii Center.

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

SECTION 1. The legislature enacted Act 202, Session Laws of Hawaii 1994, which created the clean Hawaii center. The purpose of the center is to work in partnership with business and government to develop and expand commercial markets for recyclable materials, recycled content products, and to facilitate recy-

cling and environmental business and technology development. The center provides technical and financial assistance to businesses and counties in reaching the solid waste reduction goals established by Act 324, Session Laws of Hawaii 1991. Act 324 established goals to reduce the solid waste stream by twenty-five per cent by January 1, 1995, and by fifty per cent by January 1, 2000. The legislature finds that further clarification of legislative intent is needed in order to provide operational authority for the clean Hawaii center and its board.

SECTION 2. Act 202, Session Laws of Hawaii 1994, is amended by adding two new sections to be designated and to read as follows:

“SECTION 5.1. The department of business, economic development, and tourism shall have the necessary powers to carry out the purposes of this Act and administer the clean Hawaii center, including but not limited to:

- (1) With advice from the board, prescribe the qualifications for eligibility of applicants for grants;
- (2) With advice from the board, establish preferences and priorities in determining eligibility for grants;
- (3) Include in its budget for subsequent fiscal periods amounts necessary to effectuate the purposes of this Act.

SECTION 6.1. Any other law to the contrary notwithstanding, nothing in this Act shall create an obligation, debt, claim, cause of action, claim for relief, charge, or any other liability of any kind whatsoever in favor of any person or entity, without regard to whether that person or entity receives any benefits under this Act, against the State or its officers and employees. The State and its officers and employees shall not be liable for the results of any investment, purchase of securities, loan, or other assistance provided pursuant to this Act; provided that such actions were taken with the consent of the board of the clean Hawaii center.”

SECTION 3. Act 202, Session Laws of Hawaii 1994, is amended as follows:

1. By amending section 2 to read:

“SECTION 2. (a) There is established within the department of business, economic development, and tourism, for administrative purposes only, the clean Hawaii center which shall be responsible for the market development of local processing and manufacturing industries for collected recyclables.

(b) The duties of the center shall be to:

- (1) Provide targeted assistance to recycling businesses, including:
 - (A) Grants for research and demonstration; and
 - (B) Low-interest, long-term loans leveraged through the Hawaii capital loan program, the Hawaii Strategic Development Corporation, the Hawaii Economic Development Corporation, the High Technology Development Corporation, the Hawaii innovative development fund, other state and federal financing programs, and private sector mechanisms including the Small Business Administration, targeting start-up and implementation costs;

[provided that the aggregate total of grants and loans under this paragraph shall be within the range of \$250,000 to \$1,000,000 from state programs;]
 - (C) The development of business plans;
 - (D) Market research and planning information;
 - (E) Referral and information on market conditions; and

- (F) Information on new technology and product development;
- (2) Undertake, in coordination with the department of health and county recycling programs, an integrated, comprehensive, education effort directed at government agencies, businesses, and the general public to promote processing, manufacturing, and purchase of recycled products. The education effort shall include:
- (A) Providing information to businesses on the availability and benefits of using recycled materials;
- (B) Providing information and referral services on recycled material markets; and
- (C) Providing information on new research and technologies that may be used by local businesses and governments;
- (3) Assist the department of health, department of accounting and general services, and the counties in the development of consistent definitions and standards for recycled product content, product performance, and availability;
- (4) Coordinate with the department of health to ensure that the education programs of both agencies are mutually reinforcing, with the center acting as the lead with respect to the business community and the department of health as the lead with respect to the general public; [and]
- (5) Facilitate, where possible, cooperative marketing of recyclable materials[.]; and
- (6) Administer the clean Hawaii fund.
- (c) In addition to other powers conferred upon it, the clean Hawaii center may do all things necessary and convenient to carry out the powers expressly and implicitly given in this Act[.], including but not limited to:
- (1) Contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the center including, but not limited to: advisory services, technical, managerial, and marketing assistance, support, and promotion;
- (2) Accept donations, grants, bequests, and devises of money, property, service, or other things of value that may be received from the United States or any agency thereof, the State or any agency thereof, any governmental agency, or any public or private institution, person, firm, or corporation, to be held, used, or applied for any or all of the purposes specified in this Act detailing receipt of each donation or grant in the annual report of the center, and including the identity of the donor or lender, the nature of the transaction, and any conditions attaching thereto;
- (3) Disburse moneys in the clean Hawaii fund, including the expenditure of all appropriations, grants, contractual reimbursements, and other funds to carry out the purposes of the center and pay for the proper general expenses of the center;
- (4) Organize, conduct, sponsor, or cooperate in and assist in the conduct of conferences, demonstrations, and studies relating to the stimulation and formation of a business; and
- (5) Promote, facilitate, contract out for, administer, or manage recycling parks; and
- (6) Adopt rules pursuant to chapter 91 to carry out the purposes of this Act.’’

2. By amending section 3 to read:

“SECTION 3. (a) The clean Hawaii center shall operate under policies established by a governing board to be composed of one representative from each of the four counties to be appointed by the respective mayors, and the following to be appointed by

the governor in accordance with section 26-34: one representative each from the department of business, economic development, and tourism and the department of health; two representatives from the financial community; and four representatives from the business community, two of which shall be from the recycling and waste management industry. The governing board shall be constituted no later than sixty days following the effective date of the Act. The department of health and the department of business, economic development, and tourism shall provide administrative and staff support to assist the start-up of the clean Hawaii center.

(b) A board member shall not participate in any decision to invest in, purchase from, sell to, borrow from, loan to, contract with, or otherwise deal with any person or entity in which the board member has a substantial financial interest.

(c) All members shall serve without compensation, but shall be reimbursed for travel expenses necessary for the performance of their duties.

(d) The board shall annually elect its chairperson and vice chairperson from among its members.

(e) Grants may be made for amounts not to exceed \$100,000 for each applicant. Applications for grants shall be made to the center and contain such information as the center shall require by rules adopted pursuant to chapter 91, Hawaii Revised Statutes.

(f) Chapter 42D, Hawaii Revised Statutes, shall not apply to the grants made pursuant to this Act.

(g) Any discussion or consideration of trade secrets or confidential commercial or financial information shall be held by the board, or any subcommittee of the board, in executive sessions closed to the public; provided that the purpose of any such executive session shall be set forth in the official minutes of the center, and business which is not related to that purpose shall not be transacted nor shall any vote be taken during the executive sessions.

[(c)] (h) The governing board shall use the following criteria, at a minimum, when evaluating recycling projects to develop and fund:

- (1) The project's potential to have an impact on overall solid waste reduction and achievement of the State's reduction goals;
- (2) Whether the project addresses the alternative management of wastes identified by the solid waste disposal facility operators as problematic;
- (3) Whether the project maximizes economic benefits through import reduction or an increase in the tax base;
- (4) The project's potential for job creation; and
- (5) Whether the board has been presented with a business plan that reflects detailed and justifiable expenses and revenues, and shows potential for profit and the ability to meet market demand for end products.

(i) The board or a committee of the board shall review all business plans, except financial statements or personal information, to assess whether the proposed business or enterprise is likely to achieve the purposes of this Act, and shall make recommendations to the department regarding the appropriateness of the proposed business or enterprise. The department shall have final authority to approve or disapprove the loan or grant application.

[(d)] (j) The use of state funds, lands, or other resources for county waste reduction activities shall be restricted to those counties whose solid waste management programs are consistent with the requirements of chapter 342G, Hawaii Revised Statutes, and applicable county integrated solid waste management plans approved pursuant to chapter 342G, Hawaii Revised Statutes.''

3. By amending section 9 to read:

“SECTION 9. The clean Hawaii center shall cease to exist on June 30, 1999[.]; provided that on June 29, 1999, all unexpended or unencumbered balances remaining in the clean Hawaii fund shall be transferred to the Hawaii capital loan program. Section 210- , Hawaii Revised Statutes, shall be repealed on June 30, 1999.”

SECTION 4. Chapter 210, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§210- Clean Hawaii fund established. There is established within the state treasury a special fund to be known as the clean Hawaii fund which shall be administered by the department of business, economic development, and tourism to fund the activities of the clean Hawaii center. All moneys derived from:

- (1) Other funding mechanisms established by future state laws;
- (2) All moneys appropriated to the fund by the legislature, received in fees and other royalties, earned on investments, or received as royalties or premiums; and
- (3) Any other moneys as may be received by the clean Hawaii center in the form of federal, state, county, or private grants, contracts, or gifts;

shall be deposited into the clean Hawaii fund and used for the purposes of Act 202, Session Laws of Hawaii 1994. The department may use appropriations and other moneys in the clean Hawaii fund not appropriated for a designated purpose, to make grants in accordance with criteria established by the clean Hawaii center, enter into contracts, pay for travel expenses of board members, organize, conduct, sponsor, or cooperate in the conduct of conferences, workshops, demonstrations, and studies relating to the stimulation and formation of a recycling or environmental business.”

SECTION 5. Section 342G-49, Hawaii Revised Statutes, is repealed.

SECTION 6. There is appropriated from the clean Hawaii fund of the State of Hawaii the sum of \$300,000 for fiscal year 1995–1996, which may be expended for the purposes of the clean Hawaii center; provided that if no funds are available, the clean Hawaii center shall not act until such funds are made available.

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

SECTION 8. This Act shall take effect upon its approval.

(Approved June 27, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.