

ACT 146

H.B. NO. 1243

A Bill for an Act Relating to Environmental Protection.

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

PART I

SECTION 1. The legislature finds that the department of health is moving toward adoption of a risk-based environmental management strategy, which is based upon risk assessment to human health and the environment, rather than upon rigid technical standards.

Due to growing concern about airborne pollutants, and in conjunction with the department of health's objective of moving toward a risk-based environmental management strategy, the legislature finds that it is necessary for the department to obtain professional staff capable of assessing airborne chemical threats to the environment.

The legislature is aware that the department is currently lacking the expertise of professional toxicologists and air quality modelers, which the legislature finds are essential for the department to adequately model the dispersion of air releases and to evaluate the health impacts of the releases on human populations. It is the intention of the legislature that these positions will enable the department to move more rapidly in adopting a risk-based strategy in handling current and potential environmental problems, be they at Campbell Industrial Park or anywhere in the State.

SECTION 2. Chapter 128D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§128D- Toxicologists. The department may establish permanent exempt positions known as toxicologists for the purpose of assessing human health risk. The positions shall be appointed by the director without regard to chapters 76 and 77. The funds for these positions shall come from the environmental response revolving fund established in section 128D-2.”

SECTION 3. Chapter 342B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§342B- Air quality modelers. The department may establish permanent exempt positions known as air quality modelers for the purpose of assessing the impact of air releases. The positions shall be appointed by the director without regard to chapters 76 and 77. The funds for these positions shall come from the clean air special fund established in section 342B-32.”

PART II

SECTION 4. The legislature finds that the state of our environment is critical to the health and welfare of our citizens and of our economy. The proximity of industrial users and residential communities creates conflicts that will become increasingly common as residential density increases, particularly in Leeward Oahu, and new industrial facilities are required to provide needed services to the community.

Campbell Industrial Park is an important resource to the State because of the services provided by the industrial uses located in this area. However, residential areas have developed in proximity to Campbell Industrial Park. Additional residential and commercial development is expected and planned to occur in this area. Present occupants may need to expand in the future and new facilities may need to be located in Campbell Industrial Park. There is currently no other area on Oahu that can easily accommodate new heavy industrial facilities.

Conflicting opinions make it difficult for the department of health and the legislature to develop the long-term plans that are critical to maximize the potential for the industrial growth that will be needed to serve the community's needs while maintaining a healthy and sound environment for residents.

While the setting of new environmental standards has been discussed, the application of these standards is a complex issue. It is the legislature's intent that before any new controls be imposed a rational determination be made that such controls produce benefits that justify their cost.

Solutions to environmental issues will only be developed in an atmosphere where all interested parties work together in a cooperative manner.

SECTION 5. (a) There is established within the department of health, for administrative purposes, an advisory task force to:

- (1) Conduct an assessment of the air quality at Campbell Industrial Park and Kahe Valley on Oahu; and
- (2) Determine the air quality impacts of emission sources in these locations.
- (b) The task force shall consist of the following:
 - (1) Representatives from the department of health;
 - (2) Representatives of the residents, covered sources, and owners in Campbell Industrial Park and Kahe Valley who shall be appointed from lists of nominees submitted by residents' organizations, covered sources designated by the director of health, and owners in Campbell Industrial Park and Kahe Valley, respectively;
 - (3) Representatives from the neighborhood boards from the area who shall be appointed from lists of nominees submitted by each neighborhood board from the area;
 - (4) A representative of the organization known as the Campbell Local Emergency Action Network Committee ("CLEAN") who shall be appointed from a list of nominees submitted by the committee;
 - (5) A member of the senate; and
 - (6) A member of the house of representatives.

Except for the member of the senate who shall be appointed by the president of the senate, and the member of the house of representatives who shall be appointed by the speaker of the house of representatives, all members shall be appointed by the director of health. The appointments shall not be subject to section 26-34 or 26-35, Hawaii Revised Statutes. Vacancies shall be filled in the same manner as the original appointment.

(c) The task force shall elect a chairperson and vice chairperson from among its members. A majority of the task force members shall constitute a quorum for any meeting duly called for the purposes of conducting the task force's business. The members of the task force shall serve without compensation, and shall not be reimbursed for expenses of any kind.

(d) In cooperation with the residents, covered sources, and owners in Campbell Industrial Park and Kahe Valley, the task force may collaborate with a private entity which shall use its best efforts to raise funds necessary to retain an independent consultant or consultants to assist the task force in conducting the air quality assessment in Campbell Industrial Park and Kahe Valley. Any funds raised for this purpose may, for convenience, be deposited into an account managed by the private entity. The task force may request the private entity to retain the services of the independent consultant who shall work in coordination with and under the supervision of the department of health. The consultant shall have experience in managing programs to measure air quality and modeling the dispersion of emissions from various industrial sources. In consultation with the department's toxicologists and air quality modelers, the consultant shall:

- (1) Prepare a report on existing air quality in Campbell Industrial Park and Kahe Valley;
- (2) Prepare a report on the capacity of Campbell Industrial Park to accommodate the expansion of present facilities and the siting of new facilities;
- (3) Consider alternative approaches that would assist such accommodation, including, but not limited to, establishing an emission credit banking and trading program; and
- (4) Submit the report to the department and the task force for review.

SECTION 6. The task force shall submit to the legislature a progress report of its activities no later than twenty days prior to the convening of the regular session of 1998, and a final report of its findings no later than twenty days prior to the convening of the regular session of 1999.

PART III

SECTION 7. Chapter 342B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§342B- Annual reports to neighboring communities. (a) Every owner or operator of a major source within Campbell Industrial Park or Kahe Valley or every owner or operator of a geothermal facility that emits criteria air pollutants in excess of one hundred tons per year shall submit an annual report to the department within sixty days of the beginning of each year, which shall describe the following:

- (1) The type and quantity of criteria pollutants emitted by the facility during the previous year;
- (2) A description of controls, operating procedures, or other measures being used by the owner or operator to control emissions of these criteria pollutants.

(b)¹ The department shall review and evaluate the information submitted under subsection (b) and produce a report. The department shall include the following information in the reports:

- (1) A summary of the ambient air quality data collected for each criteria pollutant monitored;
- (2) A comparison of the monitoring data collected against state and federal ambient air quality standards;

- (3) Impacts of the monitored criteria pollutants' adverse effects on human health and the environment; and
- (4) A report on air quality trends over a five-year period.
- (c) The department shall distribute the reports described in this section on a monthly basis to adjacent neighborhood boards or community associations, or both."

SECTION 7.² The legislature is further concerned about the recent occurrences of unplanned releases of criteria pollutants, and finds that the department of health should provide timely information to affected neighborhoods and communities.

SECTION 8.² Chapter 342B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§342B- Unpermitted releases; timely notice. The department shall review the reports submitted by every owner or operator of a geothermal facility, or major source within Campbell Industrial Park or Kahe Valley, of their unpermitted releases to determine whether the release may have an adverse impact on human health. The department shall notify the neighborhood boards or community associations, or both, of the adjacent communities of unpermitted releases which may have an adverse impact on human health as soon as circumstances warrant.”

SECTION 9.² The department of health may expend from the environmental response revolving fund the sum of \$78,000, which includes \$60,000 in salary and \$18,000 for fringe benefits, for the purpose of funding one toxicologist.

SECTION 10.² The department of health may expend from the clean air special fund the sum of \$78,000, which includes \$60,000 in salary and \$18,000 for fringe benefits, for the purpose of funding one air quality modeler.

SECTION 11.² New statutory material is underscored.³

SECTION 12.² This Act shall take effect upon its approval; provided that section 5 shall take effect upon its approval and shall be repealed on June 30, 1999; and provided further that sections 9 and 10 shall be effective on July 1, 1997.

(Approved June 16, 1997.)

Notes

1. “(b)” substituted for “(c)”.
2. So in original.
3. Edited pursuant to HRS §23G-16.5.