

ACT 261

S.B. NO. 1718

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds for Electrical Generation on the Island of Maui.

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

SECTION 1. The legislature finds that support for the development of renewable energy systems and efficient energy systems in the State, which is geographically isolated from sources of oil, continues to be in the public interest.

The legislature further finds that BlueEarth Maui Biodiesel, LLC, proposes to build biodiesel transesterification plants on the island of Maui. BlueEarth Maui Biodiesel, LLC, is engaged in the planning, design, and construction of a biodiesel refinery on Maui to supply a renewable source of electrical generation fuel replacing a portion of the petroleum-based feedstocks presently being used.

The legislature notes that special purpose revenue bonds are available to entities other than BlueEarth Maui Biodiesel, LLC.

SECTION 2. (a) The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare. The legislature further finds that the issuance of special purpose revenue bonds and refunding of special purpose revenue bonds under this Act to assist BlueEarth Maui Biodiesel, LLC, in the planning, design, and construction of a biodiesel refinery on Maui will make the generation of electricity with renewable biofuels economically feasible and provide numerous benefits. Electrical generation with biodiesel fuel will:

- (1) Reduce dependence on imported fossil fuels for electrical generation, increasing Hawaii's energy security;
 - (2) Help to meet Hawaii's renewable energy goals by using existing generation assets with on-island produced renewable biodiesel;
 - (3) Reduce greenhouse-gas emissions via a renewable closed loop carbon system;
 - (4) Provide significant reductions of hydrocarbon, sulfur, toxic compounds, and particulate matter emissions compared to burning petroleum diesel; and
 - (5) Eliminate, with the completion of phase one of the project, the need to purchase and import up to forty million gallons of diesel per year. This amount will increase as phases two and three are completed.
- (b) Benefits from the BlueEarth Maui Biodiesel, LLC, project will include:
- (1) Encouraging local agricultural research, development, and cultivation of renewable energy feedstock crops on Hawaii to be used by the

- project that will stimulate locally grown biodiesel feedstock crops, such as palm and jatropha, bringing fallow agricultural lands back into production;
- (2) Providing biodiesel at competitive prices as compared to importation alternatives;
- (3) Stimulating locally produced ethanol for use as a renewable component in the transesterification of vegetable oils into biodiesel;
- (4) Generating substantial moneys in construction project spending over a period of multiple years as each of the three phases (approximately forty-million-gallon capacity added with each phase) is built; and
- (5) Assisting the State, county of Maui, and the federal government to meet their goals and mandates for energy efficiency and renewable energy use.

SECTION 3. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$59,000,000, in one or more series, for the purpose of assisting BlueEarth Maui Biodiesel, LLC, with the construction of a biodiesel refinery on Maui with primary production volumes designated as fuel for electrical generation.

The legislature finds and determines that BlueEarth Maui Biodiesel, LLC's planning, design, and construction of a biodiesel refinery to supply a renewable source of electrical-generation fuel constitutes a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 4. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 5. The department of budget and finance is authorized, from time to time, including times subsequent to June 30, 2012, to issue special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 3 and to refund special purpose revenue bonds authorized in this section, regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption or whether the refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 3.

SECTION 6. As a condition precedent to the issuance of special purpose revenue bonds under this Act, BlueEarth Maui Biodiesel, LLC, or its affiliates shall give priority to utilizing Hawaii grown fuel stock when available and shall not import fuel stock that is the product of growth on farms where forests have been cleared to accommodate the growing of such crops. To receive bond financing under this Act, BlueEarth Maui Biodiesel, LLC, shall be required to import fuel stock produced only from sustainable sources; provided that BlueEarth Maui Biodiesel, LLC, and its affiliates shall document that sustainable sources are utilized; provided further that the documentation shall be transmitted or otherwise made available to the department of business, economic development, and tourism. The department of business, economic development, and tourism shall certify the documentation submitted and shall notify the department of budget and finance in writing as to whether BlueEarth Maui Biodiesel, LLC, and its affiliates are in compliance with this section

prior to the issuance of any special purpose revenue bonds being issued pursuant to this Act.

SECTION 7. Notwithstanding any law to the contrary, the interest in bonds issued under this Act shall be subject to state and federal income tax laws.

SECTION 8. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2012.

SECTION 9. This Act shall take effect on July 1, 2007.

(Approved July 6, 2007.)