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# A BILL FOR AN ACT

RELATING TO ENERGY EFFICIENCY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 201G, Hawaii Revised Statutes, is  
2 amended by adding a new section to part II, subpart F, to be  
3 appropriately designated and to read as follows:  
4           "201G-    Energy efficiency in the private development of  
5 affordable housing projects consisting of one hundred or more  
6 residential units; submittal of alternate development cost  
7 scenarios; required. With respect to the private development of  
8 affordable housing projects undertaken pursuant to section 201G-  
9 122 that involve the development of one hundred or more  
10 residential units, the administration shall require the private  
11 developer to submit alternate development cost scenarios that  
12 include life-cycle cost analysis information on energy efficient  
13 products that may be utilized in a given project to meet the  
14 energy efficiency goals of section 196-13. The administration,  
15 subject to the availability of funds, shall strive to implement  
16 the energy efficiency alternatives proposed in the alternate  
17 development cost scenarios as it deems appropriate and prudent."



1 SECTION 2. Section 204.5, Hawaiian Homes Commission Act,  
2 is amended to read as follows:

3 "§204.5. **Additional powers.** In addition and supplemental  
4 to the powers granted to the department by law, and  
5 notwithstanding any law to the contrary, the department may:

- 6 (1) With the approval of the governor, undertake and carry  
7 out the development of any Hawaiian home lands  
8 available for lease under and pursuant to section 207  
9 of this Act by assembling these lands in residential  
10 developments and providing for the construction,  
11 reconstruction, improvement, alteration, or repair of  
12 public facilities therein, including, without  
13 limitation, streets, storm drainage systems,  
14 pedestrian ways, water facilities and systems,  
15 sidewalks, street lighting, sanitary sewerage  
16 facilities and systems, utility and service corridors,  
17 and utility lines, where applicable, sufficient to  
18 adequately service developable improvements therein,  
19 sites for schools, parks, off-street parking  
20 facilities, and other community facilities;
- 21 (2) With the approval of the governor, undertake and carry  
22 out the development of available lands for homestead,



1 commercial, and multipurpose projects as provided in  
2 section 220.5 of this Act, as a developer under this  
3 section or in association with a developer agreement  
4 entered into pursuant to this section by providing for  
5 the construction, reconstruction, improvement,  
6 alteration, or repair of public facilities for  
7 development, including, without limitation, streets,  
8 storm drainage systems, pedestrian ways, water  
9 facilities and systems, sidewalks, street lighting,  
10 sanitary sewerage facilities and systems, utility and  
11 service corridors, and utility lines, where  
12 applicable, sufficient to adequately service  
13 developable improvements therein, sites for schools,  
14 parks, off-street parking facilities, and other  
15 community facilities;

16 (3) With the approval of the governor, designate by  
17 resolution of the commission all or any portion of a  
18 development or multiple developments undertaken  
19 pursuant to this section an "undertaking" under part  
20 III of chapter 39, Hawaii Revised Statutes; and

21 (4) Exercise the powers granted under section 39-53,  
22 Hawaii Revised Statutes, including the power to issue



1 revenue bonds from time to time as authorized by the  
2 legislature.

3 All provisions of part III of chapter 39, Hawaii Revised  
4 Statutes, shall apply to the department and all revenue bonds  
5 issued by the department shall be issued pursuant to the  
6 provisions of that part, except these revenue bonds shall be  
7 issued in the name of the department, and not in the name of the  
8 State.

9 With respect to the submittal of funding requests to the  
10 governor and the legislature for projects undertaken pursuant to  
11 this section, the commission shall also submit alternate budget  
12 scenarios that include life-cycle cost analysis information on  
13 energy efficient products that may be utilized in a given  
14 project to meet the energy efficiency goals of section 196-13,  
15 Hawaii Revised Statutes.

16 As applied to the department, the term "undertaking" as  
17 used in part III of chapter 39 shall include a residential  
18 development or a development of homestead, commercial, or  
19 multipurpose projects under this Act. The term "revenue" as  
20 used in part III of chapter 39, shall include all or any portion  
21 of the rentals derived from the leasing of Hawaiian home lands



1 or available lands, whether or not the property is a part of the  
2 development being financed."

3 SECTION 3. Section 10-4, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **"§10-4 Office of Hawaiian affairs; established; general**  
6 **powers.** There shall be an office of Hawaiian affairs  
7 constituted as a body corporate which shall be a separate entity  
8 independent of the executive branch. The office, under the  
9 direction of the board of trustees, shall have the following  
10 general powers:

- 11 (1) To adopt, amend, and repeal bylaws governing the  
12 conduct of its business and the performance of the  
13 powers and duties granted to or imposed upon it by  
14 law;
- 15 (2) To acquire in any lawful manner any property, real,  
16 personal, or mixed, tangible or intangible, or any  
17 interest therein; to hold, maintain, use, and operate  
18 the same; and to sell, lease, or otherwise dispose of  
19 the same at such time, in such manner and to the  
20 extent necessary or appropriate to carry out its  
21 purpose; provided that, with respect to the submittal  
22 of funding requests to the governor and the

1           legislature for any affordable housing development or  
2           improvement projects that may be undertaken by the  
3           office, the board shall also submit alternate budget  
4           scenarios that include life-cycle cost analysis  
5           information on energy efficient products that may be  
6           utilized in a given project to meet the energy  
7           efficiency goals of section 196-13;

8           (3) To determine the character of and the necessity for  
9           its obligations and expenditures, and the manner in  
10          which they shall be incurred, allowed, and paid,  
11          subject to provisions of law specifically applicable  
12          to the office of Hawaiian affairs;

13          (4) To enter into and perform such contracts, leases,  
14          cooperative agreements, or other transactions with any  
15          agency or instrumentality of the United States, or  
16          with the State, or with any political subdivision  
17          thereof, or with any person, firm, association, or  
18          corporation, as may be necessary in the conduct of its  
19          business and on such terms as it may deem appropriate;

20          (5) To execute, in accordance with its bylaws, all  
21          instruments necessary or appropriate in the exercise  
22          of any of its powers;



- 1           (6) To issue revenue bonds pursuant to this chapter in  
2           such principal amounts as may be authorized from time  
3           to time by law to finance the cost of an office  
4           project as authorized by law and to provide for the  
5           security thereof as permitted by this chapter;
- 6           (7) To lend or otherwise apply the proceeds of the bonds  
7           issued for an office project either directly or  
8           through a trustee or a qualified person for use and  
9           application in the acquisition, construction,  
10          installation, or modification of an office project, or  
11          agree with the qualified person whereby any of these  
12          activities shall be undertaken or supervised by that  
13          qualified person or by a person designated by the  
14          qualified person;
- 15          (8) With or without terminating a project agreement, to  
16          exercise any and all rights provided by law for entry  
17          and re-entry upon or to take possession of an office  
18          project at any time or from time to time upon breach  
19          or default by a qualified person under a project  
20          agreement, including any action at law or in equity  
21          for the purpose of effecting its rights of entry or  
22          re-entry or obtaining possession of the project or for



1 the payments of rentals, user taxes, or charges, or  
2 any other sum due and payable by the qualified person  
3 to the office pursuant to the project agreement; and  
4 (9) To take such actions as may be necessary or  
5 appropriate to carry out the powers conferred upon it  
6 by law."

7 SECTION 4. Section 37-43, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "~~{}~~§37-43~~{}~~ **Capital improvement project allotment**  
10 **process.** The department of budget and finance shall carry out  
11 the capital improvement project allotment process, which shall  
12 consist of reviewing, prioritizing, and evaluating capital  
13 improvement project appropriation proposals submitted by state  
14 and county agencies to ~~[assure]~~ ensure conformity with statewide  
15 planning goals and objectives ~~[and]~~, executive priorities, and  
16 sections 196-13 and 196-19, and report its findings and  
17 recommendations to the governor in order that ~~[such]~~ those  
18 proposals may be considered for possible inclusion in the  
19 executive capital improvement project budget that is to be  
20 presented to the legislature. The department shall also review,  
21 analyze, and report on state and county capital improvement  
22 project appropriation proposals that extend over wide





1 geographical areas of the State and that have significant  
2 impacts upon economic development, land use, environmental  
3 quality, construction employment, and executive policy  
4 directions."

5 SECTION 5. Section 37-67, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[+]§37-67[+] **Responsibilities of the department of budget**  
8 **and finance.** The director of finance shall assist the governor  
9 in the preparation, explanation, and administration of the state  
10 long-range plans, the proposed six-year program and financial  
11 plan, and the state budget. To this end, subject to this part,  
12 the director shall:

13 (1) With the approval of the governor, develop procedures  
14 and [~~prescribe~~] adopt rules [~~and regulations~~] to guide  
15 [~~such~~] state agencies as may be assigned by the  
16 director the task of formulating and preparing the  
17 initial proposals with respect to long-range plans,  
18 program and financial plans, program budget requests,  
19 and program performance reports, and to [~~assure~~]  
20 ensure the availability of information needed for  
21 effective policy decision-making[-];



- 1           (2) Assist [~~such~~] state agencies in the formulation of  
2           program objectives, preparation of program plans and  
3           program budget requests, and reporting of program  
4           performance[~~-~~];
- 5           (3) Coordinate, analyze, and revise as necessary the  
6           program objectives, long-range plans, program and  
7           financial plans, program budget requests and program  
8           performance reports initially proposed or prepared by  
9           [~~such~~] state agencies and develop the state  
10          comprehensive program and financial plan, budget, and  
11          program performance report[~~-~~];
- 12          (4) Administer its responsibilities under the program  
13          execution provisions of this part so that the policy  
14          decisions and budget determinations of the governor  
15          and the legislature are implemented to the fullest  
16          extent possible within the concepts of proper  
17          management[~~-~~];
- 18          (5) Investigate continuously the administration of the  
19          various agencies for the purpose of advising the  
20          governor and recommending to the governor, the  
21          legislature, and the committees of the legislature  
22          concerning the duties of the various positions in



1           these agencies, the methods of the agency, the  
2           standards of efficiency therein, and changes [~~which~~]  
3           that in the director's judgment, will produce greater  
4           effectiveness of programs and economy in the conduct  
5           of government programs and assist in the preparation  
6           of program and financial plans, budget requests, and  
7           program performance reports[~~-~~];

8           (6) Provide the legislature and any member or committee of  
9           either house of the legislature with [~~such~~] documents  
10          and information as may be requested concerning the  
11          programs, budget, and fiscal and management operations  
12          of the State[~~-~~]; and

13          (7) With respect to the submittal of capital improvement  
14          project funding requests to the governor and the  
15          legislature, the director shall also submit alternate  
16          budget scenarios that include life-cycle cost analysis  
17          information on energy efficient products that may be  
18          utilized in a given capital improvement project to  
19          meet the energy efficiency goals of section 196-13."

20          SECTION 6. Section 37-68, Hawaii Revised Statutes, is  
21          amended to read as follows:



1           **"§37-68 Responsibilities of agencies.** Under such rules as  
2 may be prescribed by the director of finance with the approval  
3 of the governor:

4           (1) Every agency assigned the task of developing programs  
5 and preparing program and financial plans, budgetary  
6 requests, and program performance reports shall  
7 develop [~~such~~] these programs and prepare [~~such~~] the  
8 plans, requests, and reports and submit the same to  
9 the director of finance at [~~such~~] times, on [~~such~~]  
10 forms, and in [~~such~~] a manner as the director may  
11 prescribe. For informational purposes, the University  
12 of Hawaii shall submit its program and financial  
13 plans, budgetary requests, and program performance  
14 reports to the legislature at the same time the  
15 university submits them to the director of finance.  
16 Where new programs are being proposed, every agency  
17 shall demonstrate that the program:

- 18           (A) Is an appropriate function of state government;  
19                 and, as applicable
- 20           (B) Can be implemented by the public sector as cost-  
21                 effectively as the private sector while meeting  
22                 the same plans, goals, objectives, standards,



1           measures of effectiveness, wage, salary,  
2           conditions of employment, and employee benefit  
3           programs of the State;

4       (2) Every agency administering state programs and every  
5       agency responsible for the formulation of programs and  
6       the preparation of program and financial plans,  
7       budgetary requests, and program performance reports,  
8       shall furnish the department of budget and finance all  
9       ~~[such]~~ documents and information as the department may  
10      from time to time require. Each agency shall make  
11      available to the legislature, and any member or  
12      committee of either house of the legislature, all  
13      documents and information as may be requested; ~~[and]~~

14      (3) With respect to the submittal of capital improvement  
15      project funding requests to the director of finance,  
16      each agency shall also submit alternate budget  
17      scenarios that include life-cycle cost analysis  
18      information on energy efficient products that may be  
19      utilized in a given capital improvement project to  
20      meet the energy efficiency goals of section 196-13;  
21      and



1        [~~(3)~~] (4) The director of finance or any employee of the  
2                    department of budget and finance, when duly  
3                    authorized, for the purpose of securing information,  
4                    shall have access to and may examine any books,  
5                    documents, papers, or records of any agency."

6            SECTION 7. Section 37-71, Hawaii Revised Statutes, is  
7 amended by amending subsection (c) to read as follows:

8            "(c) The display of financial requirements for the ensuing  
9 two fiscal years shall more specifically include:

10           (1) At the lowest level on the state program structure,  
11              for each program:

12              (A) The total recommended expenditures, including  
13                    research and development, capital, and operating  
14                    costs, by cost categories and cost elements for  
15                    the ensuing biennium; and the planned allocation  
16                    of the total biennial request, by cost  
17                    categories, and cost elements, between the two  
18                    fiscal years of the biennium. The means of  
19                    financing and the number of positions included in  
20                    any cost category amount shall be appropriately  
21                    identified;



- 1 (B) A summary showing means of financing the total  
2 recommended expenditures, those amounts requiring  
3 and those amounts not requiring legislative  
4 appropriation or authorization for spending in  
5 each fiscal year of the biennium;
- 6 (C) A crosswalk of the total proposed biennial  
7 expenditures between the program and expending  
8 agencies. The means of financing the number of  
9 positions and the lease payments included in any  
10 cost amount, and the net amount requiring  
11 appropriation or authorization shall be  
12 appropriately identified for each expending  
13 agency; and
- 14 (D) The proposed changes in the levels of  
15 expenditures, by cost categories, between the  
16 biennium in progress and the ensuing biennium,  
17 together with a brief explanation of the major  
18 reasons for each change. The reasons shall  
19 include, as appropriate, the following:
- 20 (i) Salary adjustments to existing positions of  
21 personnel;
- 22 (ii) The addition or deletion of positions;



- 1 (iii) Changes in the number of persons being
- 2 served or to be served by the program;
- 3 (iv) Changes in the program implementation
- 4 schedule;
- 5 (v) Changes in the actual or planned level of
- 6 program effectiveness;
- 7 (vi) Increases due to the establishment of a
- 8 program not previously included in the
- 9 State's program structure;
- 10 (vii) Decreases due to the phasing out of a
- 11 program previously included in the State's
- 12 program structure; and
- 13 (viii) Changes in the purchase price of goods or
- 14 services;

15 As appropriate, references to the program and  
16 financial plan shall be noted for an explanation of  
17 the changes. Notwithstanding the provisions of  
18 subsection (b)(5), the proposed changes in the levels  
19 of expenditures may be shown to the nearest thousand  
20 dollars;

21 (2) Appropriate summaries of paragraph (1)(A) and (C)  
22 immediately above at every level of the state program



1 structure above the lowest level. Such summaries  
2 shall be by the major groupings of programs  
3 encompassed within the level. The summaries of  
4 paragraph (1) (A) shall identify the means of financing  
5 and the number of positions and the lease payments  
6 included in any cost category amount; and

7 (3) A summary listing of all capital improvement projects  
8 included in the proposed capital investment costs for  
9 the ensuing biennium. The listing shall be by  
10 programs at the lowest level of the state program  
11 structure and shall show for each project, by  
12 investment cost elements:

13 (A) The cost of the project;

14 (B) The amount of funds previously appropriated and  
15 authorized by the legislature; ~~and~~

16 (C) The amount of new appropriations and  
17 authorizations proposed in each of the two fiscal  
18 years of the ensuing biennium and in each of the  
19 succeeding four years. The amount of the new  
20 appropriations and authorizations proposed shall  
21 constitute the proposed new requests for the  
22 project in each of the fiscal bienniums~~[-]~~; and



1           (D) Alternate budget scenarios that include life-  
2           cycle cost analysis information on energy  
3           efficient products that may be utilized in a  
4           given capital improvement project to meet the  
5           energy efficiency goals of section 196-13.

6           In every instance, the means of financing shall be  
7           noted."

8           SECTION 8. Section 42F-103, Hawaii Revised Statutes, is  
9           amended to read as follows:

10           "~~{}~~§42F-103~~{}~~ **Standards for the award of grants and**  
11 **subsidies.** (a) Grants and subsidies shall only be awarded to  
12 individuals who, and organizations ~~[which:]~~ that:

- 13           (1) Are licensed or accredited, in accordance with  
14           federal, state, or county statutes, rules, or  
15           ordinances, to conduct the activities or provide the  
16           services for which a grant or subsidy is awarded;
- 17           (2) Comply with all applicable federal and state laws  
18           prohibiting discrimination against any person on the  
19           basis of race, color, national origin, religion,  
20           creed, sex, age, sexual orientation, or disability;
- 21           (3) Agree not to use state funds for entertainment or  
22           lobbying activities; and



1 (4) Allow the state agency to which funds for the grant or  
2 subsidy were appropriated for expenditure, legislative  
3 committees and their staff, and the auditor full  
4 access to their records, reports, files, and other  
5 related documents and information for purposes of  
6 monitoring, measuring the effectiveness, and  
7 ~~[assuring]~~ ensuring the proper expenditure of the  
8 grant or subsidy.

9 (b) In addition, a grant or subsidy may be made to an  
10 organization only if the organization:

- 11 (1) Is incorporated under the laws of the State; and  
12 (2) Has bylaws or policies that describe the manner in  
13 which the activities or services for which a grant or  
14 subsidy is awarded shall be conducted or provided.

15 (c) Further, a grant or subsidy may be awarded to a non-  
16 profit organization only if the organization:

- 17 (1) Has been determined and designated to be a non-profit  
18 organization by the Internal Revenue Service; and  
19 (2) Has a governing board whose members have no material  
20 conflict of interest and serve without compensation.

21 (d) If a grant or subsidy is to be expended on a capital  
22 improvement project of the non-profit organization, then the



1 grant or subsidy request shall include life-cycle cost analysis  
 2 information on energy efficient products that shall be utilized  
 3 by the non-profit organization in the capital improvement  
 4 project. Notwithstanding any other law to the contrary, for the  
 5 purpose of receiving a grant or subsidy under this chapter for a  
 6 capital improvement project, a non-profit organization shall  
 7 agree to adhere to the energy efficiency goals of section  
 8 196-13."

9 SECTION 9. Section 214-2, Hawaii Revised Statutes, is  
 10 amended to read as follows:

11 "**§214-2 Funds, allotment, and expenditure.** (a) Money  
 12 allotted under this chapter by the State shall be available to  
 13 the several counties; provided that no part of state or county  
 14 moneys shall be expended for capital improvement projects  
 15 [~~which~~] that are not a part of the general plan of the State[~~7~~]  
 16 or [~~which~~] that will not reasonably contribute to the economic  
 17 development of the county. The determination of:

- 18 (1) [~~the~~] The extent of participation by the State[~~7~~]; and  
 19 (2) [~~what~~] What capital improvement projects shall  
 20 reasonably contribute to the economic development of a  
 21 county;



1 shall be made by the governor taking into consideration the  
2 State's goal for specific segments of its general plan and the  
3 financial position of the county.

4 (b) Each county shall include, in its grant-in-aid request  
5 to the State, alternate budget scenarios that include life-cycle  
6 cost analysis information on energy efficient products that may  
7 be utilized in a given capital improvement project to meet the  
8 energy efficiency goals of section 196-13."

9 SECTION 10. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 11. This Act shall take effect on July 1, 2006;  
12 provided that the provisions of the amendments made by section 2  
13 of this Act to the Hawaiian Homes Commission Act, 1920, as  
14 amended, are declared to be severable, and if any section,  
15 sentence, clause, or phrase, or the application thereof to any  
16 person or circumstances is held ineffective because there is a  
17 requirement of having the consent of the United States to take  
18 effect, then that portion only shall take effect upon the  
19 granting of consent by the United States and effectiveness of



- 1 the remainder of these amendments or the application thereof
- 2 shall not be affected.
- 3

INTRODUCED BY:

Calvin K. Day

JAN 25 2006



HB 2984

**Report Title:**

Capital Improvement Projects; Energy Efficiency

**Description:**

Requires all state and county agencies and grant or subsidy recipients that utilize state funds for capital improvement projects to submit an energy efficiency plan with their funding request.

