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# A BILL FOR AN ACT

RELATING TO HYDROGEN ENERGY PARKS.

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

1           SECTION 1. Chapter 171, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4                           **"PART.       HYDROGEN ENERGY PARKS**

5           **§171-A Definitions.** For the purposes of this part:

6           "Eligible lessee" means a person who is:

- 7                   (1) Engaged or proposing to engage in hydrogen energy  
8                   development; and  
9                   (2) Qualified to lease public lands under this  
10                  chapter.

11           "Hydrogen energy park" means an area of public lands which  
12 is designated a hydrogen energy park in accordance with this  
13 part.

14           "Hydrogen energy development" means the research,  
15 development, manufacturing, refining, sorting, processing,  
16 storing, production, sale, or maintaining of storable hydrogen  
17 energy produced from qualifying alternative energy sources.



1 "Qualifying alternative energy sources" means energy  
2 derived from wind, wind farms, solar technology, photovoltaic  
3 processes, or geothermal conversion, or any other alternative  
4 energy source as determined by the board pursuant to chapter 91.

5 **§171-B Designation of hydrogen energy park.** A contiguous  
6 area of not less than two acres of public lands which is  
7 classified or otherwise determined by the board as suitable and  
8 economically feasible for hydrogen energy development may be  
9 designated as a hydrogen energy park:

- 10 (1) By resolution adopted by the board of land and natural  
11 resources; or  
12 (2) By law.

13 **§171-C Authority to plan, improve, develop, operate, and**  
14 **maintain hydrogen energy parks.** The board shall plan, improve,  
15 develop, operate, and maintain each hydrogen energy park  
16 designated pursuant to section 171-B. The planning, improving,  
17 developing, operation, and maintenance of a hydrogen energy park  
18 shall be in accordance with this chapter.

19 **§171-D Hydrogen energy park development.** (a) The department  
20 may develop an area of public lands as a hydrogen energy park.  
21 Any development shall commence after designation of the area of  
22 public lands as a hydrogen energy park in accordance with



1 section 171-B. Planning activities for the proposed or potential  
2 designation of a hydrogen energy park may precede a designation.

3 (b) The development of a hydrogen energy park shall be  
4 exempt from all statutes, ordinances, charter provisions, and  
5 rules of any governmental agency relating to planning, zoning,  
6 construction standards for subdivision development and  
7 improvement of land, and the construction of buildings thereon;  
8 provided that:

9 (1) The board finds that the hydrogen energy park meets  
10 the minimum requirements of health and safety;

11 (2) The development of the hydrogen energy park does not  
12 contravene any safety standards;

13 (3) The legislative body of the county in which the  
14 hydrogen energy park is proposed to be situated  
15 approves the hydrogen energy park.

16 (A) The legislative body shall approve or disapprove  
17 the hydrogen energy park within thirty days after  
18 the department has submitted preliminary plans  
19 and specifications for the hydrogen energy park  
20 to the legislative body. If after the thirtieth  
21 day, a hydrogen energy park is not disapproved,



1                   it shall be deemed approved by the legislative  
2                   body.

3                   (B) No action shall be prosecuted or maintained  
4                   against any county, its officials, or employees,  
5                   on account of actions taken by them in  
6                   reviewing, approving, or disapproving the plans  
7                   and specifications.

8                   (C) The final plans and specifications for the  
9                   hydrogen energy park shall be deemed approved by  
10                  the legislative body if the final plans and  
11                  specifications for the hydrogen energy park do  
12                  not substantially deviate from the preliminary  
13                  plans and specifications. The determination that  
14                  the final plans and specifications do not  
15                  substantially deviate from the preliminary plans  
16                  and specifications of the hydrogen energy park  
17                  shall rest with the board. The final plans and  
18                  specifications for the park shall constitute the  
19                  planning, zoning, building, improvement,  
20                  construction, and subdivision standards for that  
21                  industrial park. For the purposes of sections  
22                  501-85 and 502-17, the chairperson of the board

1 or the responsible county official may certify  
2 maps and plans of land connected with the  
3 hydrogen energy park as having complied with  
4 applicable laws and ordinances relating to  
5 consolidation and subdivision of lands, and such  
6 maps and plans shall be accepted for  
7 registration or recordation by the land court  
8 and registrar; and

9 (4) The board shall assume the responsibility of all  
10 infrastructure within the hydrogen energy park, if  
11 the infrastructure developed is exempt from  
12 applicable county ordinances, charter provisions, and  
13 rules.

14 **§171-E Joint venture or development agreement.** (a) A  
15 hydrogen energy park may be developed under section 171-D by the  
16 department in partnership or under a development agreement with  
17 a federal agency, county, or private party subject to a  
18 partnership or development agreement executed by the chairperson  
19 of the board; provided that if the hydrogen energy park is to be  
20 developed in partnership or under a development agreement with a  
21 private party, the private party shall be selected in accordance

1 with section 103D-302 or 103D-303. At a minimum, the agreement  
2 shall provide for:

- 3 (1) A determination by the board that the partnership  
4 agreement or the development agreement is for a  
5 public purpose;
- 6 (2) Long-term assurance that the public land within the  
7 hydrogen energy park will be utilized for hydrogen  
8 development uses;
- 9 (3) Final approval by the board of the plans and  
10 specifications for the hydrogen energy park;
- 11 (4) Exclusive authority by the board to issue leases or  
12 master leases within the hydrogen energy park; and
- 13 (5) Conditions to ensure a public benefit from any state  
14 funds expended for the hydrogen energy park.

15 (b) Notwithstanding any other provision of law to the  
16 contrary, a partnership or development agreement entered into  
17 pursuant to subsection (a) may provide for:

- 18 (1) The board to issue master leases within an hydrogen  
19 energy park by negotiation, without regard to the  
20 limitations provided in sections 171-16(c) and 171-  
21 59(a), to the entity that developed the hydrogen



1 energy park or the nominee or nominees of the entity  
2 that developed the hydrogen energy park; and

3 (2) A master lease with terms and conditions upon which  
4 the master lessee may issue tenant subleases within  
5 the hydrogen energy park without the consent of the  
6 board.

7 **§171-F Disposition of public lands within hydrogen energy**

8 **park.** The board shall dispose of economic units within a  
9 hydrogen energy park only by lease to eligible lessees or  
10 lessees engaged in commercial uses as provided under paragraph  
11 (1) (B). The leases shall be issued by the board in accordance  
12 with this chapter, subject to the following:

13 (1) Only hydrogen development uses shall be allowed  
14 on the public lands leased; provided that:

15 (A) The eligible lessee may be allowed to engage  
16 in non hydrogen development uses and  
17 activities ancillary and necessary to the  
18 eligible lessee's hydrogen development use;  
19 and

20 (B) The board may lease public lands within the  
21 hydrogen energy park for other commercial  
22 uses if the uses are necessary or desirable



1 to serve other lessees in the hydrogen  
2 energy park or their employees;

3 (2) Each eligible lessee shall be subject to a  
4 development plan formulated pursuant to section  
5 171-41 and make the improvements to the leased  
6 public lands required under the development plan;  
7 and

8 (3) Each eligible lessee shall pay all assessments  
9 for improvements of infrastructure or other  
10 public or common facilities within the hydrogen  
11 energy park, if the board requires the  
12 improvements or assessments as conditions of the  
13 lease.

14 **§171-G Preference.** Preference for a lease of public lands  
15 within an hydrogen energy park shall be given to an eligible  
16 lessee whose hydrogen energy development qualifying alternative  
17 energy source is derived from wind, wind farms, or photovoltaic  
18 processes.

19 **§171-H Acquisition.** The board may acquire by exchange,  
20 direct purchase, or eminent domain, lands to which private  
21 persons or other public agencies hold title for designation as



1 or inclusion in a hydrogen energy park. The acquisition of lands  
2 shall be in accordance with this chapter.

3 **§171-I Lease for eligible permittee in hydrogen energy**  
4 **park.** (a) Notwithstanding any other provision of law to the  
5 contrary:

6 (1) A parcel of the public lands within an hydrogen  
7 energy park which had been occupied and used  
8 under a permit on the day before the date of  
9 designation of that hydrogen energy park shall be  
10 an economic unit in that hydrogen energy park.

11 For the purpose of this section:

12 (A) "Date of designation" means the effective  
13 date of the resolution or law which  
14 designates a hydrogen energy park; and

15 (B) "Eligible economic unit" means an economic  
16 unit referred to under this paragraph;

17 (2) A person with a permit to use an eligible  
18 economic unit on the day before the date of  
19 designation of that hydrogen energy park shall be  
20 given first preference to lease that unit after  
21 the date of designation if the person is an  
22 eligible lessee. For the purpose of this section,



1 an "eligible permittee" means a person referred  
2 to under this paragraph;

3 (3) The board shall issue a lease to an eligible  
4 permittee for an eligible economic unit under  
5 mutually agreeable terms, conditions, and lease  
6 rent. The lease shall be issued through  
7 negotiations, without regard to the limitations  
8 set forth in section 171-16(c) and section 171-  
9 59(a);

10 (4) The board shall negotiate in good faith with each  
11 eligible permittee. If the board and eligible  
12 permittee cannot agree to a lease within one  
13 hundred eighty days from the date of designation,  
14 the board shall have no further obligation to  
15 negotiate with or issue a lease to the eligible  
16 permittee and may issue a lease for the eligible  
17 economic unit to another person after the one  
18 hundred eighty-day period; provided that any  
19 lease for the eligible economic unit issued  
20 subsequent to the termination of the one hundred  
21 eighty-day period shall not include terms and  
22 conditions which are less restrictive, and a



1 lease rent which is less, than the terms,  
2 conditions, and lease rent last offered in  
3 writing by the eligible permittee and received by  
4 the board; and

5 (5) The board, in lieu of issuing a lease under  
6 paragraph (3), may issue a master lease to a  
7 corporation whose members or shareholders shall  
8 be either eligible permittees or eligible  
9 sublessees of the hydrogen energy park, through  
10 negotiations and without regard to the  
11 limitations provided in section 171-16(c) and  
12 section 171-59(a). The master lease shall provide  
13 for the issuance of subleases to eligible  
14 permittees and other sublessees approved by the  
15 board, on terms and conditions approved by the  
16 board. The terms and conditions of a master lease  
17 concerning the authority to sublease shall  
18 supersede any contrary term or condition in a  
19 development agreement executed prior to the  
20 issuance of the master lease; provided that all  
21 other terms and conditions of the development  
22 agreement shall be incorporated and made a part



1 of the master lease. The lessee under the master  
2 lease shall assume the responsibility of  
3 administering and monitoring permittee compliance  
4 with all sublease obligations.

5 (b) It is the intent of the legislature that persons  
6 occupying and using under a month-to-month or revocable permit  
7 public lands which have been designated as part of a hydrogen  
8 energy park be given the opportunity to lease the same public  
9 lands occupied and used prior to the designation. The  
10 application, construction, and interpretation of this section  
11 shall reflect this intent.

12 **§171-J Lease for lessees dislocated by condemnation**

13 **proceedings.** (a) For purposes of this section:

14 (1) "Dislocated lessee" means any lessee engaged in  
15 commercial or industrial uses who has been or  
16 will be displaced from private property which is  
17 acquired by the State or any county for public  
18 use by the power of eminent domain or threat  
19 thereof; and

20 (2) "Eligible relocation site" means a site  
21 designated as an appropriate relocation site for  
22 dislocated lessees by law, or by resolution



1                    adopted by the board of land and natural  
2                    resources.

3            (b) Notwithstanding any law to the contrary, any dislocated  
4 lessee shall have the right of first refusal to enter into a  
5 lease for an eligible relocation site.

6            (c) The board shall issue a lease to a dislocated lessee  
7 for an eligible relocation site under mutually agreeable terms,  
8 conditions, and lease rent. The lease shall be issued through  
9 negotiations, without regard to the limitations set forth in  
10 section 171-16(c) and section 171-59(a). The terms, conditions  
11 and rent under the lease shall be in conformance with chapter  
12 171, and the board shall include lease covenants in each lease  
13 for the placement and construction of improvements in accordance  
14 with minimum standards established by applicable county building  
15 codes.

16            (d) The board shall negotiate in good faith with each  
17 dislocated lessee. If the board and dislocated lessee cannot  
18 agree to a lease within one hundred and eighty days from the  
19 date the dislocated lessee receives notice of the availability  
20 of an eligible relocation site, the board shall have no further  
21 obligation to negotiate with or issue a lease to the dislocated  
22 lessee for that economic unit, and may issue a lease for the



1 economic unit to another person after the one hundred and  
2 eighty-day period according to the provisions of chapter 171.

3       **§171-K Issuance of revenue bonds.** (a) The board may issue  
4 revenue bonds in the name of the department in such amounts as  
5 may be authorized by the legislature. Except as provided in this  
6 chapter, all revenue bonds shall be issued pursuant to part III  
7 of chapter 39 to finance, in whole or in part, the costs of  
8 construction, acquisition, or maintenance of any hydrogen energy  
9 park and to pledge or assign for the punctual payment of the  
10 revenue bonds, and interest thereon, any and all revenues  
11 derived from any hydrogen energy park or parks undertaken by the  
12 board, in an amount sufficient to pay the principal and interest  
13 of the revenue bonds as they become due, and to create and  
14 maintain reasonable reserves or sinking funds therefor. Funds of  
15 the board, not otherwise required, may be advanced to pay  
16 necessary expenses incurred in preparation for the issuance of  
17 the revenue bonds. The board may take any other appropriate  
18 action in connection with the issuance of revenue bonds.

19       (b) All revenue bonds issued pursuant to this chapter shall  
20 be issued in the name of the department and not in the name of  
21 the State.



1 (c) The board, with the approval of the governor, may  
2 designate by resolution one or more hydrogen energy parks  
3 undertaken pursuant to this chapter as an "undertaking" as  
4 defined in section 39-51 and for purposes of part III of chapter  
5 39.

6 **§171-L Rules.** The board may adopt rules in accordance with  
7 chapter 91 in order to effectuate the purposes of this part."

8 SECTION 2. Section 171-41, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10 "(a) Leases for commercial, industrial, and other business  
11 uses shall be made only pursuant to a development plan which  
12 provides for careful placement of complementary enterprises  
13 consistent with county zoning requirements; except:

14 (1) [That development] Development plans for leases of  
15 parcels in industrial parks developed under section  
16 171-134(b) shall provide for careful placement of  
17 complementary enterprises consistent with the final  
18 plans and specifications under section 171-134(b) [-];  
19 and

20 (2) Development plans for leases of parcels in hydrogen  
21 energy parks developed under section 171-D(b) shall  
22 provide for careful placement of complementary



1 enterprises consistent with the final plans and  
2 specifications under section 171-D(b).

3 Where a disposition for any such use is made without advance  
4 parcelization, the board shall make adequate provisions for the  
5 compatibility of the proposed enterprises with any existing  
6 surrounding private developments. The board, wherever possible,  
7 shall control the landscaping and architecture of the  
8 enterprises and protect the public against the creation of  
9 nuisances of smoke, soot, irritating odors and gases, and  
10 harmful wastes."

11 SECTION 3. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 4. This Act shall take effect upon its approval.

INTRODUCED BY:

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14  
15



SB2124

**Report Title:**

Hydrogen Energy Parks

**Description:**

Establishes Hydrogen Energy Parks for the research, development, sale, and production of hydrogen energy facilities that make hydrogen from alternative energy sources.

SB SMO 06-040

