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# A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

1 SECTION 1. Section 196-11, Hawaii Revised Statutes, is  
2 amended by amending the definition of "energy-savings  
3 performance contract" to read as follows:

4 "[~~Energy-savings~~] "Energy performance contract" [~~means an~~  
5 ~~agreement for the provision of energy services and equipment,~~  
6 ~~including building energy conservation enhancing retrofits and~~  
7 ~~alternate energy technologies, in which a private sector person~~  
8 ~~or company agrees to finance, design, construct, install,~~  
9 ~~maintain, operate, or manage energy systems or equipment to~~  
10 ~~improve the energy efficiency of, or produce energy in~~  
11 ~~connection with, a facility in exchange for a portion of the~~  
12 ~~cost savings, lease payments, or specified revenues including~~  
13 ~~utility rebates and any other available incentives, and the~~  
14 ~~level of payments is made contingent upon the verified energy~~  
15 ~~savings, energy production, avoided maintenance, avoided energy~~  
16 ~~equipment replacement, or any combination of the foregoing~~  
17 ~~bases.] shall have the same meaning as in section 36-41(d)."~~



1 SECTION 2. Section 196-21, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) Notwithstanding any law to the contrary relating to  
4 the award of public contracts, any agency desiring to enter into  
5 an energy-savings contract shall do so in accordance with the  
6 following provisions:

7 (1) The agency shall issue a public request for proposals,  
8 advertised in the same manner as provided in chapter  
9 103D, concerning the provision of energy-efficiency  
10 services or the design, installation, operation, and  
11 maintenance of energy equipment. The request for  
12 proposals shall contain terms and conditions relating  
13 to submission of proposals, evaluation, and selection  
14 of proposals, financial terms, legal responsibilities,  
15 and other matters as may be required by law and as the  
16 agency determines appropriate;

17 (2) Upon receiving responses to the request for proposals,  
18 the agency shall select the most qualified proposal or  
19 proposals and may base its determination on the basis  
20 of the experience and qualifications of the proposers,  
21 the technical approach, the financial arrangements,  
22 the overall benefits to the agency, or other factors



- 1           determined by the agency to be relevant and  
2           appropriate;
- 3           (3) The agency thereafter may negotiate and enter into an  
4           energy-savings contract with the person or company  
5           whose proposal is selected as the most qualified based  
6           on the criteria established by the agency;
- 7           (4) The term of any energy-savings contract entered into  
8           pursuant to this section shall not exceed [~~fifteen~~  
9           twenty years;
- 10          (5) Any energy-savings contract may provide that the  
11          agency ultimately shall receive title to the energy  
12          system being financed under the contract; and
- 13          (6) Any energy-savings contract shall provide that total  
14          payments shall not exceed total savings."

15          SECTION 3. Section 196-22, Hawaii Revised Statutes, is  
16          amended to read as follows:

17          "**§196-22 State energy projects.** State energy projects may  
18          be implemented under this chapter with the approval of the  
19          comptroller and the director of finance. [~~Notwithstanding~~  
20          ~~section 36-41 or 196-21, the comptroller or the senior agency~~  
21          ~~official of the department of accounting and general services,~~  
22          ~~along with the director of finance, may exempt a state energy~~



1 ~~project from the advertising and competitive bidding~~  
2 ~~requirements of section 36-41 or 196-21 and chapter 103, if the~~  
3 ~~comptroller deems exemption appropriate for energy projects with~~  
4 ~~proprietary technology or necessary to meet the goals of the~~  
5 ~~legislature.]~~ In addition, this section shall be construed to  
6 provide the greatest possible flexibility to agencies in  
7 structuring agreements so that economic benefits and existing  
8 energy incentives may be used and maximized, and financing and  
9 other costs to agencies may be minimized. The specific terms of  
10 energy-savings contracting under section 36-41 may be altered if  
11 deemed advantageous to the agency and approved by the director  
12 of finance and the ~~[senior agency official.]~~ comptroller."

13 SECTION 4. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Energy Resources

**Description:**

Replaces definition of "energy-savings performance contracts" with "energy performance contracts"; extends the maximum term of an energy performance contract from fifteen to twenty years; allows the state procurement officer to exempt a state energy project from advertising and competitive bidding requirements.

