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## A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1           SECTION 1. The legislature finds that the use of renewable  
2 energy resources increases Hawaii's energy self-sufficiency,  
3 achieving broad societal benefits, including increased energy  
4 security, resistance to fluctuating oil prices, environmental  
5 sustainability, economic development, and job creation. Over  
6 the years, the legislature has encouraged the use of renewable  
7 energy resources by establishing, among other things, renewable  
8 energy tax credits, incentives for the use of solar energy  
9 devices, and an enforceable renewable energy portfolio standard.

10           Currently, each electric utility company that sells  
11 electricity for consumption in the State must establish a  
12 renewable portfolio standard of ten per cent of its net  
13 electricity sales by December 31, 2010, and fifteen per cent by  
14 December 31, 2015. The legislature can help the utilities reach  
15 the renewable portfolio standards by supporting independent  
16 power producers that sell power to the utilities.

17           Even small renewable energy projects can have a significant  
18 impact on the State's energy self-sufficiency. For instance,



1 small wind turbines reduce dependence on polluting forms of  
2 electric generation. According to the United States Department  
3 of Energy, wind energy is one of the lowest-priced renewable  
4 energy technologies available today. Solar, biomass, and  
5 hydroelectric energy generating facilities are among the other  
6 renewable energy projects that can serve residential and small  
7 commercial needs. Given current oil prices and developing  
8 technology, there is increased interest in the promotion and  
9 application of small scale renewable energy projects.

10 There are a variety of permits required for any renewable  
11 energy project development in Hawaii. Depending on the project,  
12 there could be federal, state, and county regulations.  
13 Regulatory responsibilities can be shared or overlap between the  
14 various levels of government.

15 All land in Hawaii is classified under one of four major  
16 land use districts pursuant to chapter 205, Hawaii Revised  
17 Statutes. The boundaries of the urban, rural, agricultural, and  
18 conservation districts are established by the state land use  
19 commission. However, the counties can change the boundaries by  
20 ordinance for areas of fifteen acres or less. Except for land  
21 that is also in a special management area pursuant to chapter  
22 205A, Hawaii Revised Statutes, the conservation district is



1 under the sole jurisdiction of the State. The state land use  
2 law guides the general county administration of the agricultural  
3 and rural districts. The urban district is entirely under  
4 county jurisdiction.

5 Counties need guidance in planning for renewable energy  
6 project development within their jurisdictions. Independent  
7 power producers, as well as residential and commercial electric  
8 customers interested in owning and operating renewable energy  
9 generating facilities, would benefit from uniform, model  
10 standards for the placement, design, construction, monitoring,  
11 modification, and removal of renewable energy facilities.

12 The purpose of this Act is to develop a model ordinance for  
13 renewable energy projects to help the counties plan for  
14 renewable energy project development within their jurisdictions.

15 SECTION 2. (a) The department of business, economic  
16 development, and tourism shall develop a model ordinance for  
17 renewable energy projects to help the counties plan for  
18 renewable energy project development within their jurisdictions.

19 (b) In developing the model ordinance for renewable energy  
20 projects, the department of business, economic development, and  
21 tourism shall:



- 1 (1) Identify the types and sizes of renewable energy
- 2 projects that are subject to county zoning laws;
- 3 (2) Evaluate all county zoning laws that affect renewable
- 4 energy projects;
- 5 (3) Review:
- 6 (A) Relevant state and federal laws; and
- 7 (B) Model energy ordinances in other states such as,
- 8 Massachusetts, Pennsylvania, and Oregon;
- 9 (4) Consider:
- 10 (A) Public health and safety;
- 11 (B) Local general plans;
- 12 (C) Local circumstances; and
- 13 (D) Local energy resources; and
- 14 (5) Collaborate with interested stakeholders and necessary
- 15 agency representatives, including:
- 16 (A) The department of land and natural resources;
- 17 (B) The department of land and natural resources,
- 18 forestry and wildlife division;
- 19 (C) The department of health, office of environmental
- 20 quality control;
- 21 (D) The board of land and natural resources;
- 22 (E) The state land use commission;



- 1 (F) The city and county of Honolulu planning and
- 2 permitting department;
- 3 (G) The Hawaii county department of planning;
- 4 (H) The Kauai county department of planning;
- 5 (I) The Maui county department of planning;
- 6 (J) The Hawaii county energy engineer or designee;
- 7 (K) The Maui county energy coordinator or designee;
- 8 (L) The Kauai county energy coordinator or designee;
- 9 (M) The Hawaii Renewable Energy Alliance; and
- 10 (N) The natural energy laboratory of Hawaii
- 11 authority.
- 12 (c) The model ordinance for renewable zoning shall:
- 13 (1) Be consistent with statewide energy planning goals;
- 14 (2) Accommodate renewable energy project permitting;
- 15 (3) To the greatest extent possible:
  - 16 (A) Provide a uniform permitting process for
  - 17 renewable energy projects; and
  - 18 (B) Standardize procedures for the review and
  - 19 approval of renewable energy projects;
- 20 (4) Given the size and complexity of a renewable energy
- 21 project:



- 1           (A) Suggest the level of detail a proposed renewable  
2           energy project should be required to provide to  
3           the county planning authority;
- 4           (B) Discuss the information a county will need to  
5           review an application, such as required maps,  
6           documentation of other necessary permits and  
7           licenses, and development plans;
- 8           (C) Recommend standards for the placement, design,  
9           construction, monitoring, modification, and  
10          removal of a given type of renewable energy  
11          facility;
- 12          (D) Recommend public notice requirements; and
- 13          (E) Recommend deadlines for construction to begin;
- 14          (5) Include provisions to preserve protected lands,  
15          wildlife, and habitats such as by recommending  
16          appropriate monitoring and mitigation actions;
- 17          (6) Include provisions to protect historical and cultural  
18          resources, such as by requiring a plan to preserve any  
19          previously undiscovered archeological, historical, or  
20          cultural artifacts discovered during construction or  
21          operation;



1 (7) Weigh property rights and a renewable energy project's  
2 contribution to the electricity supply against  
3 aesthetic concerns; and

4 (8) Include other recommendations and conditions as  
5 determined by the department of business, economic  
6 development, and tourism.

7 (d) The model ordinance for renewable energy projects may  
8 include:

9 (1) The outright use or prohibition of certain renewable  
10 energy projects in certain zones;

11 (2) The exemption of certain renewable energy projects  
12 from detailed standards or additional review steps;  
13 and

14 (3) A special fee rate for certain renewable energy  
15 projects.

16 (e) For purposes of this section, "renewable energy" means  
17 energy produced by wind, solar, wave, biomass, geothermal,  
18 hydro, or ocean.

19 (f) The department of business, economic development, and  
20 tourism shall submit a report, including any proposed  
21 legislation, to the legislature no later than twenty days prior  
22 to the convening of the regular session of 2009.



1 SECTION 3. There is appropriated out of the general  
 2 revenues of the State of Hawaii the sum of \$ or so  
 3 much thereof as may be necessary for fiscal year 2008-2009 for  
 4 the department of business, economic development, and tourism to  
 5 develop a model ordinance for renewable energy projects.

6 The sum appropriated shall be expended by the department of  
 7 business, economic development, and tourism for the purposes of  
 8 this Act.

9 SECTION 4. This Act shall take effect on July 1, 2008.

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**Report Title:**

Zoning; Model Ordinance for Renewable Energy Projects

**Description:**

Requires the department of business, economic development, and tourism to develop a model ordinance for renewable energy projects for adoption by the counties. Appropriates funds to develop the model ordinance.

