
A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

1 SECTION 1. The legislature finds that one of the primary
2 functions of government is the need to coordinate, from an
3 informed technical and analytical perspective, the development
4 of the State's energy resources to preserve energy security.
5 This means improving energy efficiency, increasing the
6 sustainable use of indigenous renewable energy, and reducing the
7 State's overdependence on oil. The legislature finds that
8 energy data and statistical and energy economic analysis are
9 integral to the State's roles in strategic energy policy
10 planning and energy emergency preparedness and response. The
11 State's focus should be aimed at preserving energy, economic
12 stability, and security. In recent years, energy markets,
13 resources, systems and technologies, the variety and types of
14 fuels, environmental standards and specifications of fuels,
15 industry and industry sectors, consumers and consumption
16 sectors, and policies related to energy and fuels have undergone
17 dramatic changes. Current and future transitional trends and
18 issues are expected to continue to influence and change Hawaii's



1 and the world's energy situation. These events have revealed to
2 the legislature a critical need to revitalize the State's
3 technical analytic capabilities and understanding of Hawaii's
4 energy resources, markets, and systems for effective planning of
5 longer term measures to preserve the State's energy security.
6 The State's energy security is a prerequisite for economic
7 stability and resilience.

8 These functions are among the statutory roles and
9 responsibilities of the director of business, economic
10 development, and tourism, who serves as the state energy
11 resources coordinator pursuant to section 196-3, Hawaii Revised
12 Statutes.

13 The legislature finds that chapter 196, Hawaii Revised
14 Statutes, assigns the responsibility to systematically analyze,
15 develop, and coordinate achievement of the State's energy
16 policies, programs, and plans to the energy resources
17 coordinator. The legislature also finds that the governor has
18 designated the energy resources coordinator as the
19 representative responsible for energy emergency preparedness,
20 including support of state civil defense, under chapters 125C
21 and 128, Hawaii Revised Statutes, analogous to the United States



1 Department of Energy's emergency support role of the Federal
2 Emergency Management Agency.

3 The legislature finds that the energy data and analytic
4 functions of the director of business, economic development, and
5 tourism as the state energy resources coordinator are
6 statutorily distinctive from those of other agencies. The
7 functions are not redundant of other agencies' functions, such
8 as the functions of the public utilities commission that focus
9 primarily on monitoring petroleum prices and industry profits, a
10 necessary and appropriate state "watchdog" role.

11 The legislature, in Act 182, Session Laws of Hawaii 2007,
12 acknowledged the difference between the department of business,
13 economic development, and tourism's energy analysis role and the
14 public utilities commission's role to conduct analysis with a
15 fundamental focus on petroleum prices and petroleum industry
16 profits. Moreover, the legislature finds that section 486J-5.3,
17 Hawaii Revised Statutes, provides policy direction to the
18 department of business, economic development, and tourism to
19 conduct energy analytic functions that are distinctively
20 different than those done by the public utilities commission.
21 It specifically recognizes that the use and analysis of energy
22 and fuels data functions remain critical to virtually all of the



1 department of business, economic development, and tourism's
2 interrelated statutory energy program functional requirements as
3 it directs the department's use of the data to effectuate the
4 purposes of chapters 125C, 196, and other relevant laws.

5 The legislature finds that just as the department of
6 business, economic development, and tourism and the public
7 utilities commission have distinctive energy-related missions
8 and functions, the types of energy data collected and
9 statistical analysis they are required to conduct are
10 distinctive as well. Both agencies require appropriate and
11 definitive policy guidance for these functions.

12 Accordingly, the legislature finds that just as the data
13 analytic functions of the public utilities commission are
14 explicated in chapter 486J, Hawaii Revised Statutes, such
15 functional detail is needed within chapter 196, Hawaii Revised
16 Statutes. Statutory language is needed to provide policy
17 guidance and appropriate direction to the department of
18 business, economic development, and tourism. The department of
19 business, economic development, and tourism should be required
20 to provide systematic quantitative and qualitative technical
21 analyses of integrated energy systems and markets; assess the
22 effectiveness of, and produce unbiased analytic proposals



1 developed for, policy and regulatory decisions; provide
2 assessments of renewable energy, energy efficiency, and fossil
3 fuels in all energy sectors; and ensure energy security by
4 diversification away from the use of imported fossil fuels.

5 Therefore, the legislature finds that to strengthen and
6 comprehensively address deficiencies in the energy resources
7 coordination statutes, it is necessary to amend chapter 196,
8 Hawaii Revised Statutes to:

- 9 (1) Update all key definitions to account for transition
10 issues related to biofuels and other alternate fuels
11 and the proliferation of new categories and
12 specifications of petroleum fuels;
- 13 (2) Address increasing unique economic and energy systems
14 risks corresponding to transition issues and trends as
15 a result of the increase in the variety of fuels and
16 fuel production feedstocks being directly imported
17 into the State and the new fuel- and feedstock-
18 specific infrastructure requirements associated with
19 such transitional issues and trends;
- 20 (3) Establish definitive policy guidance needed on the
21 nature and relationship of energy data analyses to the
22 State's energy program, to clearly delineate



1 distinctive analytic roles and responsibilities of
2 state agencies conducting energy data functions; and
3 (4) Provide the basis for a robust, systematic state
4 energy analytic capacity and capability.

5 The purpose of this Act is to remedy the deficiencies in
6 existing statutes governing energy policy planning and provide
7 definitive guidance relating to the necessary quantitative and
8 qualitative energy analytic functions support for the role of
9 the energy resources coordinator.

10 SECTION 2. Chapter 196, Hawaii Revised Statutes, is
11 amended by adding two new sections to be appropriately
12 designated and to read as follows:

13 "§196- Information and analysis required for state
14 comprehensive energy planning for energy security. The
15 coordinator shall:

16 (1) Use all information, including confidential
17 information, received from all sources, including the
18 information received from the commission pursuant to
19 chapter 486J and information received pursuant to
20 chapter 125C, to effectuate the purposes of this
21 chapter and chapter 125C; and



- 1 (2) Conduct systematic statistical and quantitative
- 2 analyses of the State's energy resources, systems, and
- 3 markets as the coordinator deems necessary to:
- 4 (A) Produce analyses designed to:
- 5 (i) Determine the status of energy resources,
- 6 systems, and markets, both in-state and
- 7 those to which Hawaii is directly tied,
- 8 particularly in relation to the State's
- 9 economy;
- 10 (ii) Recommend, develop proposals for, and assess
- 11 the effectiveness of policy and regulatory
- 12 decisions and assessments of renewable
- 13 energy, energy efficiency, and all fuels in
- 14 all sectors; and
- 15 (iii) Ensure energy security;
- 16 (B) Produce analyses of private and public sector
- 17 energy planning efforts and market-based policies
- 18 to:
- 19 (i) Develop Hawaii's energy resources, systems,
- 20 and markets in all sectors;
- 21 (ii) Develop programs to preserve and protect the
- 22 State's energy security;

- 1 (iii) Effectuate the conservation of energy
2 resources;
- 3 (iv) Formulate plans for the development and use
4 of alternative energy sources;
- 5 (v) Determine and recommend well-informed
6 government policies and programs that may be
7 necessary and appropriate; and
- 8 (vi) Implement and evaluate the effectiveness of
9 the policies and programs;
- 10 (C) Conduct systematic statistical, energy economic,
11 and other relevant analyses for comprehensive
12 energy planning toward determining, measuring,
13 evaluating, formulating, and recommending
14 specific proposals for achieving optimum
15 development of Hawaii's energy resources;
- 16 (D) Establish and maintain a quantitative and
17 qualitative technical understanding of Hawaii's
18 statewide energy resources, systems, and markets
19 and their relationships to the economy;
- 20 (E) Produce trend analyses and forecasts of energy
21 supply and demand and trend analyses of major



1 aspects of Hawaii's energy resources; systems,
2 and markets;

3 (F) Produce assessments of the cost-competitiveness
4 of developing renewable energy and energy
5 efficiency resources and subcategories of those
6 energy resources in relation to each other and
7 relative to petroleum-based fuels and other
8 fossil fuels and other energy resources; and

9 (G) Produce other relevant energy analyses that the
10 coordinator deems necessary to administer the
11 comprehensive energy planning for energy security
12 policies pursuant to this chapter and to
13 implement and evaluate other related activities
14 in support of the coordinator's role and
15 responsibilities pursuant to this chapter,
16 chapter 125C, and other relevant laws.

17 **§196- Confidential information.** (a) All information
18 received by the coordinator that is exempt from public
19 disclosure under section 92F-13 shall be:

20 (1) Afforded all the protection available pursuant to
21 chapter 486J; and



1 (2) Held in confidence by the coordinator and the
2 coordinator's staff and agents or aggregated to the
3 extent necessary in the coordinator's discretion to
4 ensure confidentiality as required by chapter 92F.

5 (b) The coordinator and the coordinator's staff and agents
6 shall preserve the confidentiality and protection of all
7 information received by the coordinator to the extent it is
8 exempt from public disclosure under section 92F-13 and, by
9 application and extension of any other agency's respective
10 safeguards, protect and prevent the unauthorized further release
11 of the information. Each agency shall afford any shared
12 information the protections from disclosure pursuant to chapter
13 92F;

14 (c) Each major energy producer, distributor, major energy
15 marketer, major fuel storer, major energy transporter, and major
16 energy user that provides confidential information to the
17 coordinator, shall provide written or electronic notification to
18 the coordinator as to the specific information that it considers
19 confidential; provided that the information specified shall only
20 be kept confidential as provided for in this section if it is
21 exempt from public disclosure under section 92F-13.



1 (d) Unless otherwise provided by law with respect to the
2 information that is exempt from public disclosure under section
3 92F-13 that the coordinator obtains, purchases, receives, or
4 otherwise acquires, the governor, the coordinator, and their
5 staff and agents shall not:

6 (1) Use the confidential information for any purposes
7 other than the purposes for which it is acquired;

8 (2) Make any publication whereby the confidential
9 information furnished by any person can be identified;
10 or

11 (3) Permit any person, other than the governor, the
12 coordinator, the coordinator's staff, or agents
13 thereof, to examine any confidential information,
14 individual reports, or statements acquired."

15 SECTION 3. Section 196-1, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§196-1 Findings and declaration of necessity.** The
18 legislature finds that:

19 (1) The global demand for petroleum and its derivatives
20 has resulted in a significant and fundamental market
21 escalation in oil prices and has caused severe



1 economic hardships throughout the State and threatens
2 to impair the public health, safety, and welfare.

3 The State of Hawaii, with its near total
4 dependence on imported fossil fuel, is particularly
5 vulnerable to dislocations in the global energy
6 market. This [~~is an anomalous~~] situation[7] can be
7 changed, as there are few places in the world so
8 generously endowed with natural energy: geothermal,
9 solar radiation, ocean temperature differential, wind,
10 biomass, waves, and currents--all potential non-
11 polluting power sources;

- 12 (2) There is a real need for comprehensive strategic
13 [~~comprehensive~~] planning in the effort towards
14 achieving full utilization of Hawaii's energy
15 [~~resource programs~~] resources and the most effective
16 allocation of energy resources throughout the State.
17 Planning is necessary and desirable in order that the
18 State may recognize and declare the major problems and
19 opportunities in the field of energy resources. Both
20 short-range and long-range planning will permit the
21 articulation of:

- 22 (A) Broad policies, goals, and objectives;



- 1 (B) Criteria for measuring and evaluating
2 accomplishments of objectives;
- 3 (C) Identification and implementation of programs
4 that will carry out such objectives; and
- 5 (D) A determination of requirements necessary for the
6 optimum development of Hawaii's energy resources.
7 Such planning efforts will identify present conditions
8 and major problems relating to energy resources, their
9 exploration, development, production, and
10 distribution. It will show the projected nature of
11 the situation and rate of change and present
12 conditions for the foreseeable future based on a
13 projection of current trends in the development of
14 energy resources in Hawaii[+] and include initiatives
15 designed to fundamentally change how Hawaii consumes
16 energy by accelerating the production of renewable and
17 alternative energy, increasing energy efficiency,
18 developing and adopting new technologies, and ensuring
19 the State's energy security;
- 20 (3) The State requires an in-depth understanding of the
21 causes and effects of any transitional issues and



1 trends related to changes in the State's energy
2 resources, systems, and markets;

3 [~~3~~] (4) There are many agencies of the federal, state,
4 and county governments in Hawaii, as well as many
5 private agencies~~[7]~~ and a broad set of non-
6 governmental entities, engaged in, or expressing an
7 interest in, various aspects of the exploration,
8 research, distribution, transportation, storage,
9 conservation, and production of all forms of energy
10 resources in Hawaii. Some of these agencies include
11 the University of Hawaii~~[7]~~; the department of land
12 and natural resources~~[7]~~; the department of business,
13 economic development, and tourism~~[7]~~; the division of
14 consumer advocacy~~[7]~~; the commission; the state civil
15 defense; the federal energy office~~[7]~~; and various
16 county agencies, as well as [~~the oil companies, gas~~
17 ~~stations, and other private enterprises,~~] Hawaii's
18 energy and energy-related companies; and

19 [~~4~~] (5) There is [~~immediate~~] an ongoing need in this
20 State to coordinate the efforts of [~~all these~~
21 ~~agencies,~~] statewide industry and government energy
22 sectors; maintain the technical capability and



1 adequate capacity to quantitatively and qualitatively
2 evaluate, analyze, develop, and coordinate
3 implementation of private and public sector energy
4 planning efforts; recommend market-based policies to
5 develop Hawaii's energy resources, systems, and
6 markets; establish and coordinate programs to preserve
7 and protect the State's energy security, maintain a
8 robust energy emergency preparedness program,
9 effectuate the conservation of [~~fuel,~~] energy
10 resources, [~~to~~] and provide for the equitable
11 distribution thereof[~~]~~]; and [~~to~~] formulate plans for
12 the development and use of alternative energy sources.
13 There is a need for [~~such~~] this coordination,
14 capability, and capacity so that there will be maximum
15 conservation and utilization of energy resources in
16 the State."

17 SECTION 4. Section 196-2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§196-2 Definitions.** As used in this chapter, unless the
20 context requires otherwise:

21 "Commission" means the public utilities commission.

22 "Coordinator" means the energy resources coordinator.



1 "Department" means the department of business, economic
2 development, and tourism.

3 "Distributor" means:

4 (1) Every person who refines, manufactures, produces, or
5 compounds fuel in the State and sells it at wholesale
6 or retail, or who utilizes it directly in the
7 manufacture of products or for the generation of
8 power;

9 (2) Every person who imports or causes to be imported into
10 the State, or exports or causes to be exported from
11 the State, any fuel;

12 (3) Every person who acquires fuel through exchanges with
13 another distributor; or

14 (4) Every person who purchases fuel for resale at
15 wholesale or retail from any person described in
16 paragraph (1), (2), or (3).

17 "Electricity" means all electrical energy produced by
18 combustion of any fuel as defined in this section, or generated
19 or produced using wind, the sun, geothermal, ocean water,
20 falling water, currents, waves, or any other source.

21 "Energy" means work or heat that is, or may be, produced
22 from any fuel or source whatsoever.



1 "Energy resources" [~~means and includes fossil fuel,~~
2 ~~nuclear, geothermal, solar, hydropower, wind, and other means of~~
3 ~~generating energy-]~~ :

4 (1) Means fuels, whether liquid, solid, or gaseous,
5 commercially usable for energy needs, power
6 generation, and fuels manufacture, that may be
7 manufactured, grown, produced, or imported into the
8 State or that may be exported therefrom, including
9 petroleum and petroleum products and gases, including
10 all fossil fuel-based gases, coal tar, vegetable
11 ferments, biomass, municipal solid waste, biofuels,
12 hydrogen, agricultural products used as fuels and as
13 feedstock to produce fuels, and all fuel alcohols; and

14 (2) Includes all electrical energy produced by combustion
15 of any fuel or generated or produced using wind, the
16 sun, geothermal, ocean water, falling water, currents,
17 waves, or any other source.

18 "Fuel" means fuels, whether liquid, solid, or gaseous,
19 commercially usable for energy needs, power generation, and
20 fuels manufacture, that may be manufactured, grown, produced, or
21 imported into the State or that may be exported therefrom,
22 including petroleum and petroleum products and gases to include

1 all fossil fuel-based gases, coal tar, vegetable ferments,
2 biomass, municipal solid waste, biofuels, hydrogen, agricultural
3 products used as fuels and as feedstock to produce fuels, and
4 all fuel alcohols.

5 "Major energy marketer" means any person who sells energy
6 resources in amounts determined by the director as having a
7 major effect on the supplies of, or demand for, energy
8 resources.

9 "Major energy producer" means any person who produces
10 energy resources in amounts determined by the director as having
11 a major effect on the supplies of, or demand for, energy
12 resources.

13 "Major energy transporter" means any person who transports
14 energy resources in amounts determined by the director as having
15 a major effect on the supplies of, or demand for, energy
16 resources.

17 "Major energy user" means any person who uses energy
18 resources in the manufacture of products or for the generation
19 of electricity in amounts determined by the director as having a
20 major effect on the supplies of, or demand for, energy
21 resources.



1 "Major fuel storer" means any person who stores fuels in
2 amounts determined by the director as having a major effect on
3 the supplies of, or demand for, energy resources.

4 "Townhouse" means a series of individual houses, having
5 architectural unity and a common wall between each unit."

6 SECTION 5. Section 196-4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§196-4 Powers and duties.** Subject to the approval of the
9 governor, the coordinator shall:

- 10 (1) Formulate plans, including objectives, criteria to
11 measure accomplishment of objectives, programs through
12 which the objectives are to be attained, and financial
13 requirements for the optimum development of Hawaii's
14 energy resources;
- 15 (2) Conduct systematic analysis of existing and proposed
16 energy resource programs, evaluate the analysis
17 conducted by government agencies and other
18 organizations and recommend to the governor and to the
19 legislature programs ~~[which]~~ that represent the most
20 effective allocation of resources for the development
21 of energy ~~[sources,]~~ resources;



- 1 (3) Formulate and recommend specific proposals, as
2 necessary, for conserving energy [~~and fuel,~~]
3 resources, including the allocation and distribution
4 thereof, to the governor and to the legislature;
- 5 (4) Assist public and private agencies in implementing
6 energy conservation and related measures;
- 7 (5) Coordinate the State's energy conservation and
8 allocation programs with that of the federal
9 government, other state governments, governments of
10 nations with interest in common energy resources, and
11 the political subdivisions of the State;
- 12 (6) Develop programs to encourage private and public
13 exploration and research of alternative energy
14 resources [~~which~~] that will benefit the State;
- 15 (7) Conduct public education programs to inform the public
16 of the energy resources situation as may exist from
17 time to time and of the government actions taken
18 [~~thereto~~];
- 19 (8) Serve as consultant to the governor, public agencies,
20 and private industry on matters related to the
21 acquisition, utilization, and conservation of energy
22 resources;



- 1 (9) Contract for services when required for implementation
2 of this chapter;
- 3 (10) Review proposed state actions [~~which~~] that the
4 coordinator finds to have significant effect on energy
5 [~~consumption~~] resources and report to the governor
6 their effect on the energy conservation program, and
7 perform such other services as may be required by the
8 governor and the legislature;
- 9 (11) Prepare and submit an annual report and [~~such~~] other
10 reports as may be requested to the governor and to the
11 legislature on the implementation of this chapter and
12 all matters related to energy resources; [~~and~~]
- 13 (12) Adopt rules for the administration of this chapter
14 pursuant to chapter 91, provided that the rules shall
15 be submitted to the legislature for review[~~-~~]; and
- 16 (13) Develop and maintain a comprehensive and systematic
17 quantitative and qualitative capacity to:
 - 18 (A) Analyze the status of energy resources, systems,
19 and markets, both in-state and those to which
20 Hawaii is directly tied, particularly in relation
21 to the State's economy;



1 (B) Recommend, develop proposals for, and assess the
2 effectiveness of, policy and regulatory
3 decisions; and

4 (C) Conduct energy emergency planning."

5 SECTION 6. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 7. This Act shall take effect upon its approval.



Report Title:

Energy Resources; Power Generation Utilities, Transportation
Fuels; State Energy Resources Coordinator

Description:

Addresses deficiencies in Hawaii's energy resources coordination
statutes. Provides policy guidance needed to provide adequate
detail on the nature and relationship of the energy data
analyses functions required of the state energy resources
coordinator and energy program. (HB3069 HD1)

