
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 which means improving energy efficiency, increasing the
6 sustainable use of indigenous renewable energy, and reducing the
7 State's overdependence on oil. The legislature also 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, as
11 both are aimed at preserving energy and economic stability and
12 security. In recent years, energy markets, resources, systems
13 and technologies, the variety and types of fuels, environmental
14 standards and specifications of fuels, industry and industry
15 sectors, consumers and consumption sectors, and policies related
16 to energy and fuels have undergone dramatic changes, and current
17 and future transitional trends and issues are expected to
18 continue to influence and change Hawaii's and the world's energy



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

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

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



1 The legislature finds that these energy data and analytic
2 functions of the director of the department of business,
3 economic development, and tourism, as the state energy resources
4 coordinator pursuant to chapter 196, Hawaii Revised Statutes,
5 are statutorily distinctive and different from those of other
6 agencies, and are not redundant of other agencies' functions;
7 e.g., the functions of the public utilities commission, which
8 focus primarily on monitoring petroleum prices and industry
9 profits, a necessary and appropriate state "watchdog" role.

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



1 development, and tourism's interrelated statutory energy program
2 functional requirements, while directing the department of
3 business, economic development, and tourism to use this data to
4 effectuate the purposes of chapters 125C and 196, Hawaii Revised
5 Statutes, and other relevant laws.

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

13 Therefore, the legislature finds that just as the data
14 analytic functions of the public utilities commission are
15 explicated in chapter 486J, Hawaii Revised Statutes, such
16 functional detail is needed within chapter 196, Hawaii Revised
17 Statutes, which assigns responsibilities to systematically
18 analyze, develop, and coordinate achievement of the State's
19 energy policies, programs, and plans. Such statutory language
20 is needed to set forth these functions and provide the policy
21 guidance by which to establish and afford appropriate direction
22 for the department of business, economic development, and



1 tourism's systematic quantitative and qualitative technical
2 analyses of integrated energy systems and markets, assess
3 effectiveness of, and produce unbiased analytic proposals
4 developed for policy and regulatory decisions, assessments of
5 renewable energy, energy efficiency, and fossil fuels in all
6 energy sectors, and ensure energy security by diversification
7 away from the use of imported fossil fuels.

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

12 (1) Update all key definitions to account for transition
13 issues related to biofuels and other alternate fuels,
14 and the proliferation of new categories and
15 specifications of petroleum fuels;

16 (2) Address increasing unique economic and energy systems
17 risks corresponding to transition issues and trends as
18 a result of the increase in the variety of fuels and
19 fuel production feedstocks being directly imported
20 into the state and the new, fuel- and feedstock-
21 specific infrastructure requirements associated with
22 such transitional issues and trends;



- 1 (3) Establish definitive policy guidance needed on the
- 2 nature and relationship of energy data analyses to the
- 3 State's energy program, and to clearly delineate
- 4 distinctive analytic roles and responsibilities of
- 5 state agencies conducting energy data functions; and
- 6 (4) Provide the basis for a robust, systematic state
- 7 energy analytic capacity and capability, which is
- 8 essential to support the energy resources
- 9 coordinator's role.

10 The purpose of this Act is to remedy the deficiencies in
 11 existing statutes governing energy policy planning, and provide
 12 definitive guidance relating to the necessary quantitative and
 13 qualitative energy analytic functions support for the role of
 14 the energy resources coordinator in this state.

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

18 "§196- Information and analysis required for state
 19 comprehensive energy planning for energy security. (a) The
 20 department of business, economic development, and tourism, with
 21 its own staff and agents whom the coordinator designates as
 22 authorized representatives, shall use the information, including



1 confidential information, received from all sources, including
2 the information received from the public utilities commission
3 pursuant to chapter 486J and information received pursuant to
4 chapter 125C, solely to effectuate the purposes of this chapter
5 and chapter 125C.

6 (b) The coordinator shall conduct systematic statistical
7 and quantitative analyses of the State's energy resources,
8 systems, and markets that the coordinator determines are
9 necessary to:

10 (1) Produce analyses designed to determine the status of
11 energy resources, systems, and markets, both in-state
12 and those to which Hawaii is directly tied,
13 particularly in relation to the State's economy, and
14 to recommend, develop proposals for, and assess the
15 effectiveness of policy and regulatory decisions and
16 assessments of renewable energy, energy efficiency,
17 and all fuels in all sectors, and ensure energy
18 security;

19 (2) Produce analyses of private and public sector energy
20 planning efforts and market-based policies to:



- 1 (A) Develop Hawaii's energy resources, systems, and
2 markets in all sectors, and programs to preserve
3 and protect the State's energy security;
- 4 (B) Effectuate the conservation of energy resources,
5 and formulate plans for the development and use
6 of alternative energy sources; and
- 7 (C) Determine and recommend well-informed government
8 policies and programs that may be necessary and
9 appropriate, and implement and evaluate the
10 effectiveness of the policies and programs;
- 11 (3) Conduct systematic statistical, energy economic, and
12 other relevant analyses for comprehensive energy
13 planning toward determining, measuring, evaluating,
14 formulating, and recommending specific proposals for
15 achieving optimum development of Hawaii's energy
16 resources;
- 17 (4) Establish and maintain a quantitative and qualitative
18 technical understanding of Hawaii's statewide energy
19 resources, systems, and markets and their
20 relationships to the economy;



1 (5) Produce trend analyses and forecasts of energy supply
2 and demand, and trend analyses of major aspects of
3 Hawaii's energy resources, systems, and markets;

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

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

17 §196- Confidential information. In effectuating the
18 purposes of this chapter, chapter 125C, and other relevant laws,
19 or for the coordinator to perform the duties pursuant to this
20 chapter, chapter 125C, and other relevant laws:

21 (1) All information received by the coordinator shall be
22 afforded all the protections available under



1 applicable law and shall be held in confidence by the
2 coordinator and the coordinator's staff and agents, or
3 aggregated to the extent necessary in the
4 coordinator's discretion to ensure confidentiality as
5 authorized by chapter 92F;

6 (2) The coordinator and the coordinator's staff and agents
7 shall preserve the confidentiality and protection of
8 all information received by the coordinator to the
9 extent authorized by law and, by application and
10 extension of any other agency's respective safeguards,
11 protect and prevent the unauthorized further release
12 of the information. Each agency shall afford any
13 shared information the protections from disclosure
14 provided for under chapter 92F;

15 (3) Each major energy producer, distributor, major energy
16 marketer, major fuel storer, major energy transporter,
17 and major energy user that provides confidential
18 information to the coordinator, shall provide written
19 or electronic notification to the coordinator as to
20 the specific information that it considers
21 confidential; and



1 (4) Unless otherwise provided by law with respect to the
2 information determined confidential or exempt from
3 disclosure under section 92F-13 that the coordinator
4 obtains, purchases, receives, or otherwise acquires,
5 neither the governor nor the coordinator, nor the
6 staff and agents thereof, shall do any of the
7 following:

8 (A) Use the confidential information for any purposes
9 other than the purposes for which it is acquired;

10 (B) Make any publication whereby the confidential
11 information furnished by any person can be
12 identified; or

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

17 SECTION 3. Section 196-2, Hawaii Revised Statutes, is
18 amended by adding twelve new definitions to be appropriately
19 inserted and to read as follows:

20 "Agent" means a person who is designated by the
21 coordinator as an authorized representative.

22 "Commission" means the public utilities commission.



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 uses it directly in the manufacture
7 of products or for the generation of power;

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

11 (3) Every person who acquires fuel through exchanges with
12 another distributor; and

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

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

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



1 "Fuel" means fuels, whether liquid, solid, or gaseous,
2 commercially usable for energy needs, power generation, and
3 fuels manufacture, that may be manufactured, grown, produced, or
4 imported into the state or that may be exported therefrom,
5 including petroleum and petroleum products and gases to include
6 all fossil fuel-based gases, coal tar, vegetable ferments,
7 biomass, municipal solid waste, biofuels, hydrogen, agricultural
8 products used as fuels and as feedstock to produce fuels, and
9 all fuel alcohols.

10 "Major energy marketer" means any person who sells energy
11 resources in amounts determined by the coordinator as having a
12 major effect on the supplies of, or demand for, energy
13 resources.

14 "Major energy producer" means any person who produces
15 energy resources in amounts determined by the coordinator as
16 having a major effect on the supplies of, or demand for, energy
17 resources.

18 "Major energy transporter" means any person who transports
19 energy resources in amounts determined by the coordinator as
20 having a major effect on the supplies of, or demand for, energy
21 resources.



1 "Major energy user" means any person who uses energy
2 resources in the manufacture of products or for the generation
3 of electricity in amounts determined by the coordinator as
4 having a major effect on the supplies of, or demand for, energy
5 resources.

6 "Major fuel storer" means any person who stores fuels in
7 amounts determined by the coordinator as having a major effect
8 on the supplies of, or demand for, energy resources."

9 SECTION 4. Section 196-1, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§196-1 Findings and declaration of necessity.** The
12 legislature finds that:

13 (1) The global demand for petroleum and its derivatives
14 has resulted in a significant and fundamental market
15 escalation in oil prices, has caused severe economic
16 hardships throughout the [~~State~~] state, and threatens
17 to impair the public health, safety, and welfare.

18 The State of Hawaii, with its near total
19 dependence on imported fossil fuel, is particularly
20 vulnerable to dislocations in the global energy
21 market. This [~~is an anomalous~~] situation[~~7~~] can be
22 changed, as there are few places in the world so



1 generously endowed with natural energy: geothermal,
2 solar radiation, ocean temperature differential, wind,
3 biomass, waves, and currents--all potential non-
4 polluting power sources;

5 (2) There is a real need for comprehensive strategic
6 [~~comprehensive~~] planning in the effort towards
7 achieving full [~~utilization~~] use of Hawaii's energy
8 [~~resource programs~~] resources and the most effective
9 allocation of energy resources throughout the [~~State.~~]
10 state. Planning is necessary and desirable in order
11 that the State may recognize and declare the major
12 problems and opportunities in the field of energy
13 resources. Both short-range and long-range planning
14 will permit the articulation of:

15 (A) Broad policies, goals, and objectives;

16 (B) Criteria for measuring and evaluating
17 accomplishments of objectives;

18 (C) Identification and implementation of programs
19 that will carry out such objectives; and

20 (D) A determination of requirements necessary for the
21 optimum development of Hawaii's energy resources.



1 Such planning efforts will identify present conditions
 2 and major problems relating to energy resources, their
 3 exploration, development, production, and
 4 distribution. It will show the projected nature of
 5 the situation and rate of change [~~and~~], present
 6 conditions for the foreseeable future based on a
 7 projection of current trends in the development of
 8 energy resources in Hawaii[+], and include initiatives
 9 designed to fundamentally change how Hawaii consumes
 10 energy, by accelerating the production of renewable
 11 and alternative energy, increasing energy efficiency,
 12 developing and adopting new technologies, and ensuring
 13 the State's energy security;

14 (3) The State requires an in-depth understanding of the
 15 causes and effects of any transitional issues and
 16 trends related to changes in the State's energy
 17 resources, systems, and markets;

18 ~~(3)~~ (4) There are many agencies of the federal, state,
 19 and county governments in Hawaii, as well as many
 20 private agencies[7] and a broad set of non-
 21 governmental entities, engaged in, or expressing an
 22 interest in, various aspects of the exploration,



1 research, distribution, transportation, storage,
2 conservation, and production of all forms of energy
3 resources in Hawaii. Some of these agencies include
4 the University of Hawaii[~~τ~~]; the department of land
5 and natural resources[~~τ~~]; the department of business,
6 economic development, and tourism[~~τ~~]; the division of
7 consumer advocacy[~~τ~~]; the public utilities commission;
8 the state civil defense; the federal energy office[~~τ~~];
9 and various county agencies, as well as [~~the oil~~
10 ~~companies, gas stations, and other private~~
11 ~~enterprises,~~], Hawaii's energy and energy-related
12 companies; and

13 [(+4)] (5) There is [~~immediate~~] an ongoing need in this
14 state to coordinate the efforts of [all these
15 agencies,] statewide industry and government energy
16 sectors, maintain the technical capability and
17 adequate capacity to quantitatively and qualitatively
18 evaluate, analyze, develop, and coordinate
19 implementation of private and public sector energy
20 planning efforts, and recommend market-based policies
21 to develop Hawaii's energy resources, systems, and
22 markets, establish and coordinate programs to preserve



1 and protect the State's energy security, maintain a
2 robust energy emergency preparedness program, and
3 effectuate the conservation of [~~fuel,~~] energy
4 resources, to provide for the equitable distribution
5 thereof, and to formulate plans for the development
6 and use of alternative energy sources. There is a
7 need for such coordination, capability, and capacity
8 so that there will be maximum conservation and
9 [~~utilization]~~ use of energy resources in the [~~State.~~]
10 state."

11 SECTION 5. Section 196-2, Hawaii Revised Statutes, is
12 amended by amending the definition of "energy resources" to read
13 as follows:

14 "Energy resources" means [~~and includes fossil fuel,~~
15 ~~nuclear, geothermal, solar, hydropower, wind, and other means of~~
16 ~~generating energy.] fuels, whether liquid, solid, or gaseous,~~

17 commercially usable for energy needs, power generation, and
18 fuels manufacture, that may be manufactured, grown, produced, or
19 imported into the state or that may be exported therefrom,
20 including petroleum and petroleum products and gases, including
21 all fossil fuel-based gases, coal tar, vegetable ferments,
22 biomass, municipal solid waste, biofuels, hydrogen, agricultural



1 products used as fuels and as feedstock to produce fuels, and
2 all fuel alcohols. Energy resources also includes all
3 electrical energy produced by combustion of any fuel, or
4 generated or produced using wind, the sun, geothermal, ocean
5 water, falling water, currents, and waves, or any other source."

6 SECTION 6. 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~~] use, and conservation of
22 energy 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[~~7~~]; provided that the rules
15 shall be submitted to the legislature for review[~~7~~];
16 and
- 17 (13) Develop and maintain a comprehensive and systematic
18 quantitative and qualitative capacity to analyze the
19 status of energy resources, systems, and markets, both
20 in-state and those to which Hawaii is directly tied,
21 particularly in relation to the State's economy, and
22 to recommend, develop proposals for, and assess the



1 effectiveness of policy and regulatory decisions, and
2 conduct energy emergency planning."

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect upon its approval.



Report Title:

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

Description:

To comprehensively address deficiencies in Hawaii's energy
resources coordination statutes. Provide policy guidance needed
to provide adequate detail on the nature and relationship of the
energy data analyses functions of the state energy resources
coordinator and energy program. (SB2991 HD1)

