

JAN 18 2008

A BILL FOR AN ACT

RELATING TO MUNICIPAL SOLID WASTE LANDFILLS.

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

1 SECTION 1. Chapter 342H, Hawaii Revised Statutes, is
2 amended by adding three new sections to be appropriately
3 designated and to read as follows:

4 "**§342H-A Transfer of jurisdiction.** No later than December
5 31, 2008, the jurisdiction and oversight of municipal solid
6 waste landfills shall be transferred to the public utilities
7 commission.

8 **§342H-B Extensions of the use of existing landfills.** No
9 extensions on permits on the use of existing municipal sold
10 waste landfill unit shall be granted after June 30, 2008.

11 **§342H-C Permits for new landfills.** After June 30, 2008,
12 permits for new municipal solid waste landfill units meeting
13 criteria, standards, and requirements under established rule
14 shall be granted; provided that permits for new municipal solid
15 waste landfill units shall not be granted if the proposed site
16 for the new landfill is situated within fifteen miles or less of



1 an existing municipal solid waste landfill unit in counties with
2 a population of greater than 500,000."

3 SECTION 2. Section 342G-30, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§342G-30 Records.** Each operator of a municipal solid
6 waste landfill or incineration facility shall keep records of
7 all deliveries of solid waste to the facility, including, but
8 not limited to, the source of the waste, the kind of waste
9 received, and the weight or volume, or both, of the waste. The
10 records shall be made available to the department for
11 incineration facilities or the public utilities commission for
12 municipal solid waste landfill facilities, and the respective
13 county for inspection, upon request. At the request of a
14 county, the department or commission may exempt a specific
15 facility from this requirement, or may modify this requirement
16 for a specific facility, if the department or commission
17 determines that the cost of compliance is likely to exceed the
18 value of accurate and thorough data. If the department or
19 commission grants an exemption to a facility under this section,
20 the public shall be notified through a statewide public notice."



1 SECTION 3. Section 342H-51, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Commission" means the public utilities commission."

5 SECTION 4. Section 342H-52, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[~~§~~342H-52~~§~~] **Prohibition.** No person, including any
8 federal agency, the State, or any county, shall construct,
9 operate, modify, expand, or close a municipal solid waste
10 landfill unit, or any component of a municipal solid waste
11 landfill unit, without first obtaining a permit from the
12 [~~director.~~] commission. All permits for municipal solid waste
13 landfill units shall be subject to [~~such~~] terms and conditions
14 as the [~~director~~] commission determines are necessary to protect
15 human health or the environment."

16 SECTION 5. Section 342H-53, Hawaii Revised Statutes, is
17 amended by amending subsections (d) and (e) to read as follows:

18 "(d) Following closure of a municipal solid waste landfill
19 unit, or a component of a municipal solid waste landfill unit,
20 the owner or operator of the unit shall conduct post-closure
21 care for a period of thirty years. The [~~director~~] commission
22 may increase the length of the post-closure care period if the



1 [~~director~~] commission determines that the lengthened period is
2 necessary to protect human health and the environment. The
3 [~~director~~] commission may decrease the length of the post-
4 closure care period if the owner or operator of the closed
5 municipal solid waste landfill unit demonstrates to the
6 satisfaction of the [~~director~~] commission that the reduced
7 period is sufficient to protect human health and the
8 environment.

9 (e) Owners and operators of municipal solid waste landfill
10 units that receive waste on or after October 9, 1993, shall
11 comply with the financial assurance criteria that the [~~director~~]
12 commission shall establish by rules adopted pursuant to this
13 part. [~~Such~~] These rules shall be effective no later than
14 April 9, 2010."

15 SECTION 6. Section 342H-54, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[~~+~~]**\$342H-54**[~~+~~] **Public participation.** The [~~director~~]
18 commission may adopt rules providing for public participation in
19 the process of reviewing applications for permits, permit
20 renewals, permit modifications, selection of corrective action
21 remedies, and related matters. [~~Such~~] These rules may require
22 applicants and permittees to be responsible for the publication



1 of notices, making documents and relevant information available
2 to the public for public review and comment and conducting
3 public hearings. The rules may also include public
4 participation provisions similar to any promulgated by the
5 United States Environmental Protection Agency for municipal
6 solid waste landfill permit programs. Public notices shall be
7 given of the [~~director's~~] commission's final determination on
8 permit applications, renewals, modifications, and selection of
9 corrective action remedies. A public hearing may be held before
10 the [~~director~~] commission rules on a permit application,
11 renewal, modification, or selection of corrective action
12 remedies if the [~~director~~] commission determines that a public
13 hearing would be in the public interest."

14 SECTION 7. Section 342H-55, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[+]§342H-55[+] **Rules; specific.** The [~~director~~]
17 commission may establish by rule the criteria, standards, and
18 requirements relating to the location, design, construction,
19 operation, maintenance, expansion, closure, and post-closure
20 care of municipal solid waste landfill units. In addition, the
21 [~~director~~] commission may establish by rule assessment
22 monitoring, ground-water monitoring, ground-water protection,



1 landfill gas monitoring, landfill gas collection, detection
2 monitoring, corrective measure, remedial action, preventive
3 action, response action, manifest, recordkeeping, notification,
4 public meeting, deed notation, and financial assurance
5 requirements, standards, or criteria for municipal solid waste
6 landfill units."

7 SECTION 8. Section 342H-56, Hawaii Revised Statutes, is
8 amended to read as follows:

9 " ~~[+]~~§342H-56 ~~[+]~~ **Other powers.** In addition to any other
10 power or duty prescribed by law or this part, the ~~[director]~~
11 commission may establish by rule a municipal solid waste
12 landfill program that meets or exceeds the standards, criteria,
13 and requirements set forth in the federal municipal solid waste
14 landfill regulations, 40 C.F.R. Part 258."

15 SECTION 9. All rights, powers, functions, and duties of
16 the department of health are transferred to the public utilities
17 commission.

18 All officers and employees whose functions are transferred
19 by this Act shall be transferred with their functions and shall
20 continue to perform their regular duties upon their transfer,
21 subject to the state personnel laws and this Act.



1 No officer or employee of the State having tenure shall
2 suffer any loss of salary, seniority, prior service credit,
3 vacation, sick leave, or other employee benefit or privilege as
4 a consequence of this Act, and such officer or employee may be
5 transferred or appointed to a civil service position without the
6 necessity of examination; provided that the officer or employee
7 possesses the minimum qualifications for the position to which
8 transferred or appointed; and provided that subsequent changes
9 in status may be made pursuant to applicable civil service and
10 compensation laws.

11 An officer or employee of the State who does not have
12 tenure and who may be transferred or appointed to a civil
13 service position as a consequence of this Act shall become a
14 civil service employee without the loss of salary, seniority,
15 prior service credit, vacation, sick leave, or other employee
16 benefits or privileges and without the necessity of examination;
17 provided that such officer or employee possesses the minimum
18 qualifications for the position to which transferred or
19 appointed.

20 If an office or position held by an officer or employee
21 having tenure is abolished, the officer or employee shall not
22 thereby be separated from public employment, but shall remain in



1 the employment of the State with the same pay and classification
2 and shall be transferred to some other office or position for
3 which the officer or employee is eligible under the personnel
4 laws of the State as determined by the head of the department or
5 the governor.

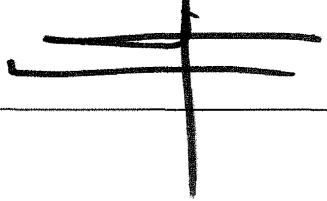
6 SECTION 10. All appropriations, records, equipment,
7 machines, files, supplies, contracts, books, papers, documents,
8 maps, and other personal property heretofore made, used,
9 acquired, or held by the department of health relating to the
10 functions transferred to the public utilities shall be
11 transferred with the functions to which they relate.

12 SECTION 11. In codifying the new sections added by section
13 1 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 12. This Act shall take effect on July 1, 2008.

17

INTRODUCED BY: _____



Report Title:

Municipal Solid Waste Landfills; Public Utilities Commission;
Jurisdiction

Description:

Transfers jurisdiction of municipal solid waste landfills from the counties to the public utilities commission. Provides no extensions on use of existing landfills. Provides that new landfills cannot be situated within fifteen miles of an existing landfill in counties with a population of greater than 500,000.

