

JAN 22 2008

A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

1 SECTION 1. The legislature finds that Hawaii's dependence
2 on petroleum for over ninety per cent of its energy needs is
3 more than any other state in the nation. This makes the state
4 extremely vulnerable to any oil embargo, supply disruption,
5 international market dysfunction, and many other factors beyond
6 the control of the State. Furthermore, the continued
7 consumption of conventional petroleum fuel and price volatility
8 can negatively impact the viability of agricultural operations.
9 At the same time, Hawaii has among the most abundant renewable
10 energy resources in the world, in the form of solar, geothermal,
11 wind, biomass, and ocean energy assets.

12 The legislature further finds that increased energy
13 efficiency and use of renewable energy resources would increase
14 Hawaii's energy self-sufficiency, achieving broad societal
15 benefits, including increased energy security, resistance to
16 increases in oil prices, environmental sustainability, economic
17 development, and job creation.



1 To shape Hawaii's energy and agricultural future and
2 achieve the goal of energy and food self-sufficiency for the
3 state, our efforts must continue on all fronts, integrating new
4 and evolving technologies, seizing upon opportunities to become
5 more economically diversified, and providing incentives and
6 assistance to address barriers. It is crucial to address the
7 negative impacts that rising and volatile petroleum prices have
8 on fuel and fertilizer.

9 The purpose of this Act is to permit the use of lands in
10 agricultural land use districts for agricultural-energy
11 facilities when the production, storage, and distribution of
12 renewable energy are integrated with an agricultural activity.

13 SECTION 2. Section 205-2, Hawaii Revised Statutes, is
14 amended by amending subsection (d) to read as follows:

15 "(d) Agricultural districts shall include:

16 (1) Activities or uses as characterized by the cultivation
17 of crops, crops for bioenergy, orchards, forage, and
18 forestry;

19 (2) Farming activities or uses related to animal
20 husbandry, and game and fish propagation;



- 1 (3) Aquaculture, which means the production of aquatic
2 plant and animal life within ponds and other bodies of
3 water;
- 4 (4) Wind generated energy production for public, private,
5 and commercial use;
- 6 (5) Biofuel production as described in section
7 205-4.5(a)(15) for public, private, and commercial
8 use;
- 9 (6) Bona fide agricultural services and uses that support
10 the agricultural activities of the fee or leasehold
11 owner of the property and accessory to any of the
12 above activities, whether or not conducted on the same
13 premises as the agricultural activities to which they
14 are accessory, including but not limited to farm
15 dwellings as defined in section 205-4.5(a)(4),
16 employee housing, farm buildings, mills, storage
17 facilities, processing facilities, agricultural-energy
18 facilities as defined in section 205-4.5(a)(16),
19 vehicle and equipment storage areas, roadside stands
20 for the sale of products grown on the premises, and
21 plantation community subdivisions as defined in
22 section 205-4.5(a)(12);



- 1 (7) Wind machines and wind farms;
 - 2 (8) Small-scale meteorological, air quality, noise, and
 - 3 other scientific and environmental data collection and
 - 4 monitoring facilities occupying less than one-half
 - 5 acre of land; provided that these facilities shall not
 - 6 be used as or equipped for use as living quarters or
 - 7 dwellings;
 - 8 (9) Agricultural parks;
 - 9 (10) Agricultural tourism conducted on a working farm, or a
 - 10 farming operation as defined in section 165-2, for the
 - 11 enjoyment, education, or involvement of visitors;
 - 12 provided that the agricultural tourism activity is
 - 13 accessory and secondary to the principal agricultural
 - 14 use and does not interfere with surrounding farm
 - 15 operations; and provided further that this paragraph
 - 16 shall apply only to a county that has adopted
 - 17 ordinances regulating agricultural tourism under
 - 18 section 205-5; and
 - 19 (11) Open area recreational facilities.
- 20 Agricultural districts shall not include golf courses and golf
- 21 driving ranges, except as provided in section 205-4.5(d).
- 22 Agricultural districts include areas that are not used for, or



1 that are not suited to, agricultural and ancillary activities by
2 reason of topography, soils, and other related characteristics."

3 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Within the agricultural district, all lands with soil
6 classified by the land study bureau's detailed land
7 classification as overall (master) productivity rating class A
8 or B shall be restricted to the following permitted uses:

- 9 (1) Cultivation of crops, including but not limited to
10 crops for bioenergy, flowers, vegetables, foliage,
11 fruits, forage, and timber;
- 12 (2) Game and fish propagation;
- 13 (3) Raising of livestock, including but not limited to
14 poultry, bees, fish, or other animal or aquatic life
15 that are propagated for economic or personal use;
- 16 (4) Farm dwellings, employee housing, farm buildings, or
17 activities or uses related to farming and animal
18 husbandry. "Farm dwelling", as used in this
19 paragraph, means a single-family dwelling located on
20 and used in connection with a farm, including clusters
21 of single-family farm dwellings permitted within
22 agricultural parks developed by the State, or where



- 1 agricultural activity provides income to the family
2 occupying the dwelling;
- 3 (5) Public institutions and buildings that are necessary
4 for agricultural practices;
- 5 (6) Public and private open area types of recreational
6 uses, including day camps, picnic grounds, parks, and
7 riding stables, but not including dragstrips,
8 airports, drive-in theaters, golf courses, golf
9 driving ranges, country clubs, and overnight camps;
- 10 (7) Public, private, and quasi-public utility lines and
11 roadways, transformer stations, communications
12 equipment buildings, solid waste transfer stations,
13 major water storage tanks, and appurtenant small
14 buildings such as booster pumping stations, but not
15 including offices or yards for equipment, material,
16 vehicle storage, repair or maintenance, treatment
17 plants, corporation yards, or other similar
18 structures;
- 19 (8) Retention, restoration, rehabilitation, or improvement
20 of buildings or sites of historic or scenic interest;
- 21 (9) Roadside stands for the sale of agricultural products
22 grown on the premises;



- 1 (10) Buildings and uses, including but not limited to
2 mills, storage, and processing facilities, maintenance
3 facilities, and vehicle and equipment storage areas
4 that are normally considered directly accessory to the
5 ~~[above-mentioned]~~ above-mentioned uses and are
6 permitted under section 205-2(d);
- 7 (11) Agricultural parks;
- 8 (12) Plantation community subdivisions, which as used in
9 this paragraph means a subdivision or cluster of
10 employee housing, community buildings, and acreage
11 established on land currently or formerly owned,
12 leased, or operated by a sugar or pineapple plantation
13 and in residential use by employees or former
14 employees of the plantation; provided that the
15 employees or former employees shall have a property
16 interest in the land;
- 17 (13) Agricultural tourism conducted on a working farm, or a
18 farming operation as defined in section 165-2, for the
19 enjoyment, education, or involvement of visitors;
20 provided that the agricultural tourism activity is
21 accessory and secondary to the principal agricultural
22 use and does not interfere with surrounding farm



1 operations; and provided further that this paragraph
2 shall apply only to a county that has adopted
3 ordinances regulating agricultural tourism under
4 section 205-5;

5 (14) Wind energy facilities, including the appurtenances
6 associated with the production and transmission of
7 wind generated energy; provided that the wind energy
8 facilities and appurtenances are compatible with
9 agriculture uses and cause minimal adverse impact on
10 agricultural land;

11 (15) Biofuel processing facilities, including the
12 appurtenances associated with the production and
13 refining of biofuels that is normally considered
14 directly accessory and secondary to the growing of the
15 energy feedstock; provided that biofuels processing
16 facilities and appurtenances do not adversely impact
17 agricultural land and other agricultural uses in the
18 vicinity.

19 For the purposes of this paragraph:

20 "Appurtenances" means operational infrastructure
21 of the appropriate type and scale for economic
22 commercial storage and distribution, and other similar



1 handling of feedstock, fuels, and other products of
2 biofuels processing facilities.

3 "Biofuel processing facility" means a facility
4 that produces liquid or gaseous fuels from organic
5 sources such as biomass crops, agricultural residues,
6 and oil crops, including palm, canola, soybean, and
7 waste cooking oils; grease; food wastes; and animal
8 residues and wastes that can be used to generate
9 energy[~~+~~ ~~or~~];

10 (16) Agricultural-energy facilities, including
11 appurtenances necessary for an agricultural-energy
12 enterprise; provided that the primary activity of the
13 agricultural-energy enterprise is agricultural
14 activity. To be considered the primary activity of an
15 agricultural-energy enterprise, the total acreage
16 devoted to agricultural activity shall be not less
17 than ninety per cent of the total acreage of the
18 agricultural-energy enterprise. The agricultural-
19 energy facility shall be limited to lands owned,
20 leased, licensed, or operated by the entity conducting
21 the agricultural activity.

22 As used in this paragraph:



1 "Agricultural activity" means any activity
2 identified in paragraphs (1) to (3) of this
3 subsection.

4 "Agricultural-energy enterprise" means an
5 enterprise that integrally incorporates an
6 agricultural activity with an agricultural-energy
7 facility.

8 "Agricultural-energy facility" means a facility
9 that generates, stores, or distributes renewable
10 energy or renewable fuel including electrical or
11 thermal energy or liquid or gaseous fuels from
12 products of agricultural activities from agricultural
13 lands located in the state.

14 "Appurtenances" means operational infrastructure
15 of the appropriate type and scale for the economic
16 commercial generation, storage, distribution, and
17 other similar handling of energy, including equipment,
18 feedstock, fuels, and other products of agricultural-
19 energy facilities;

20 or

21 ~~[(16)]~~ (17) Construction and operation of wireless
22 communication antennas; provided that, for the purposes



1 of this paragraph, "wireless communication antenna"
 2 means communications equipment that is either
 3 freestanding or placed upon or attached to an already
 4 existing structure and that transmits and receives
 5 electromagnetic radio signals used in the provision of
 6 all types of wireless communications services; provided
 7 further that nothing in this paragraph shall be
 8 construed to permit the construction of any new
 9 structure that is not deemed a permitted use under this
 10 subsection."

11 SECTION 4. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

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

14 J. Kelly Gish INTRODUCED BY: Ron mena
Clarence K. Dishler Will Eyo
S.S.T. Norman Siefert
Anna Mercedes K. Trizanne Chum Adeland
Maureen R. Brown Carol Johnson
Thy L. Hoan Ruth
Jim Michelle
REDD

S.B. NO. 2849

Bruner. Kohl

Mike Hubbard

And Ydye

Andy H. Bob

Report Title:

Agricultural-energy facilities; Agricultural districts

Description:

Permits the use of lands in agricultural land use districts to be used for agricultural-energy facilities provided that the primary activity of the agricultural-energy enterprise is agricultural activity.

