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# 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:

- 10 (1) Permit the use of lands in agricultural land use  
11 districts for agricultural-energy facilities when the  
12 production, storage, and distribution of renewable  
13 energy are integrated with an agricultural activity;  
14 and
- 15 (2) Allow existing structures on plantation community  
16 subdivisions to be used or rehabilitated for employee  
17 rental housing at affordable rates for agricultural  
18 workers and agricultural support buildings for  
19 agricultural business operators and support services.

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

22 "(d) Agricultural districts shall include:



- 1           (1) Activities or uses as characterized by the cultivation  
2           of crops, crops for bioenergy, orchards, forage, and  
3           forestry;
- 4           (2) Farming activities or uses related to animal  
5           husbandry, and game and fish propagation;
- 6           (3) Aquaculture, which means the production of aquatic  
7           plant and animal life within ponds and other bodies of  
8           water;
- 9           (4) Wind generated energy production for public, private,  
10          and commercial use;
- 11          (5) Biofuel production as described in section  
12          205-4.5(a)(15) for public, private, and commercial  
13          use;
- 14          (6) Bona fide agricultural services and uses that support  
15          the agricultural activities of the fee or leasehold  
16          owner of the property and accessory to any of the  
17          above activities, whether or not conducted on the same  
18          premises as the agricultural activities to which they  
19          are accessory, including [~~but not limited to~~] farm  
20          dwellings as defined in section 205-4.5(a)(4),  
21          employee housing, farm buildings, mills, storage  
22          facilities, processing facilities, agricultural-energy



1           facilities as defined in section 205-4.5(a)(16),  
2           vehicle and equipment storage areas, roadside stands  
3           for the sale of products grown on the premises, and  
4           plantation community subdivisions as defined in  
5           section 205-4.5(a)(12);

6           (7) Wind machines and wind farms;

7           (8) Small-scale meteorological, air quality, noise, and  
8           other scientific and environmental data collection and  
9           monitoring facilities occupying less than one-half  
10          acre of land; provided that these facilities shall not  
11          be used as or equipped for use as living quarters or  
12          dwellings;

13          (9) Agricultural parks;

14          (10) Agricultural tourism conducted on a working farm, or a  
15          farming operation as defined in section 165-2, for the  
16          enjoyment, education, or involvement of visitors;  
17          provided that the agricultural tourism activity is  
18          accessory and secondary to the principal agricultural  
19          use and does not interfere with surrounding farm  
20          operations; and provided further that this paragraph  
21          shall apply only to a county that has adopted



1 ordinances regulating agricultural tourism under  
2 section 205-5; and

3 (11) Open area recreational facilities.

4 Agricultural districts shall not include golf courses and golf  
5 driving ranges, except as provided in section 205-4.5(d).

6 Agricultural districts include areas that are not used for, or  
7 that are not suited to, agricultural and ancillary activities by  
8 reason of topography, soils, and other related characteristics."

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

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

15 (1) Cultivation of crops, including [~~but not limited to~~]  
16 crops for bioenergy, flowers, vegetables, foliage,  
17 fruits, forage, and timber;

18 (2) Game and fish propagation;

19 (3) Raising of livestock, including [~~but not limited to~~]  
20 poultry, bees, fish, or other animal or aquatic life  
21 that are propagated for economic or personal use;



- 1           (4) Farm dwellings, employee housing, farm buildings, or  
2           activities or uses related to farming and animal  
3           husbandry. "Farm dwelling", as used in this  
4           paragraph, means a single-family dwelling located on  
5           and used in connection with a farm, including clusters  
6           of single-family farm dwellings permitted within  
7           agricultural parks developed by the State, or where  
8           agricultural activity provides income to the family  
9           occupying the dwelling;
- 10          (5) Public institutions and buildings that are necessary  
11          for agricultural practices;
- 12          (6) Public and private open area types of recreational  
13          uses, including day camps, picnic grounds, parks, and  
14          riding stables, but not including dragstrips,  
15          airports, drive-in theaters, golf courses, golf  
16          driving ranges, country clubs, and overnight camps;
- 17          (7) Public, private, and quasi-public utility lines and  
18          roadways, transformer stations, communications  
19          equipment buildings, solid waste transfer stations,  
20          major water storage tanks, and appurtenant small  
21          buildings such as booster pumping stations, but not  
22          including offices or yards for equipment, material,



- 1 vehicle storage, repair or maintenance, treatment
- 2 plants, corporation yards, or other similar
- 3 structures;
- 4 (8) Retention, restoration, rehabilitation, or improvement
- 5 of buildings or sites of historic or scenic interest;
- 6 (9) Roadside stands for the sale of agricultural products
- 7 grown on the premises;
- 8 (10) Buildings and uses, including [~~but not limited to~~]
- 9 mills, storage, and processing facilities, maintenance
- 10 facilities, and vehicle and equipment storage areas
- 11 that are normally considered directly accessory to the
- 12 [~~above mentioned~~] above-mentioned uses and are
- 13 permitted under section 205-2(d);
- 14 (11) Agricultural parks;
- 15 (12) Plantation community subdivisions, which as used in
- 16 this [~~paragraph~~] chapter means [a] an established
- 17 subdivision or cluster of employee housing, community
- 18 buildings, and [~~aereage established~~] agricultural
- 19 support buildings on land currently or formerly owned,
- 20 leased, or operated by a sugar or pineapple plantation
- 21 [~~and in residential use~~]; provided that the existing
- 22 structures may be used or rehabilitated for use, and



1           new employee housing and agricultural support  
2           buildings may be allowed on land within the  
3           subdivision as follows:

4           (A) The employee housing is occupied by employees or  
5           former employees of the plantation[~~; provided~~  
6           ~~that the employees or former employees shall~~] who  
7           have a property interest in the land;

8           (B) The employee housing units not owned by their  
9           occupants shall be rented or leased at affordable  
10           rates for agricultural workers; or

11           (C) The agricultural support buildings shall be  
12           rented or leased to agricultural business  
13           operators or agricultural support services;

14           (13) Agricultural tourism conducted on a working farm, or a  
15           farming operation as defined in section 165-2, for the  
16           enjoyment, education, or involvement of visitors;  
17           provided that the agricultural tourism activity is  
18           accessory and secondary to the principal agricultural  
19           use and does not interfere with surrounding farm  
20           operations; and provided further that this paragraph  
21           shall apply only to a county that has adopted





1           ordinances regulating agricultural tourism under  
2           section 205-5;

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

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

17                   For the purposes of this paragraph:

18                   "Appurtenances" means operational infrastructure  
19                   of the appropriate type and scale for economic  
20                   commercial storage and distribution, and other similar  
21                   handling of feedstock, fuels, and other products of  
22                   biofuels processing facilities.



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

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

20 As used in this paragraph:

21 "Agricultural activity" means any activity  
22 described in paragraphs (1) to (3) of this subsection.



1                   "Agricultural-energy enterprise" means an  
2                   enterprise that integrally incorporates an  
3                   agricultural activity with an agricultural-energy  
4                   facility.

5                   "Agricultural-energy facility" means a facility  
6                   that generates, stores, or distributes renewable  
7                   energy as defined in section 269-91 or renewable fuel  
8                   including electrical or thermal energy or liquid or  
9                   gaseous fuels from products of agricultural activities  
10                  from agricultural lands located in the State.

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

17                  or

18    ~~[(16)]~~ (17)    Construction and operation of wireless  
19                  communication antennas; provided that, for the purposes  
20                  of this paragraph, "wireless communication antenna"  
21                  means communications equipment that is either  
22                  freestanding or placed upon or attached to an already



1 existing structure and that transmits and receives  
2 electromagnetic radio signals used in the provision of  
3 all types of wireless communications services; provided  
4 further that nothing in this paragraph shall be  
5 construed to permit the construction of any new  
6 structure that is not deemed a permitted use under this  
7 subsection."

8 SECTION 4. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

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



S.B. NO. 2849  
S.D. 1  
H.D. 1  
C.D. 1

**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. (CD1)

