

JAN 19 2007

A BILL FOR AN ACT

RELATING TO ESTABLISHMENT OF NATURAL ENERGY LABORATORY OF HAWAII
AUTHORITY INNOVATION CORPORATION.

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

1 SECTION 1. The legislature finds that the purpose of the
2 natural energy laboratory of Hawaii authority is to facilitate
3 research, development, and commercialization of natural energy
4 resources and ocean-related research, technology, and industry
5 in Hawaii, and to engage in retail, commercial, or tourism
6 activities that will financially support that research,
7 development, and commercialization. The legislature further
8 finds that the purposes of the natural energy laboratory of
9 Hawaii authority will be more efficiently served by a
10 not-for-profit corporation attached to the agency.

11 The natural energy laboratory of Hawaii authority
12 innovation corporation will be an entity responsible for
13 supporting the natural energy laboratory of Hawaii authority by
14 furnishing the means, methods, and agencies by which management,
15 programming, training, investigation, research, and analysis may
16 be conducted and its resulting benefits made available to the
17 public. The natural energy laboratory of Hawaii authority



1 innovation corporation will also be responsible for managing its
2 assets, resources, and funding, planning and implementing its
3 programs, and promoting and marketing Hawaii as a location for
4 research and commercial natural energy activity.

5 The purpose of this Act is to establish a not-for-profit
6 natural energy laboratory of Hawaii authority innovation
7 corporation.

8 SECTION 2. Chapter 227D, Hawaii Revised Statutes, is
9 amended by adding a new part to be appropriately designated and
10 to read as follows:

11 **"PART . NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY**
12 **INNOVATION CORPORATION**

13 **§227D- Establishment of the natural energy laboratory of**
14 **Hawaii authority innovation corporation; purpose; duties. (a)**

15 There is established, as a body corporate, the natural energy
16 laboratory of Hawaii authority innovation corporation. For the
17 purposes of this part, "corporation" means the natural energy
18 laboratory of Hawaii authority innovation corporation. The
19 corporation shall be a private, not-for-profit organization
20 under section 501(c)(3) of the Internal Revenue Code of 1986, as
21 amended. The corporation shall be attached to the natural



1 energy laboratory of Hawaii authority for administrative
2 purposes.

3 (b) The purpose of the corporation shall include but not
4 be limited to the facilitation of the growth and prosperity of
5 the State's economy by providing resources for alternative
6 energy research and development. The corporation shall
7 implement this purpose by:

8 (1) Furnishing the means, methods, and agencies by which
9 management, programming, training, investigation,
10 research, and analysis may be conducted;

11 (2) Other means to make the benefits of programming,
12 training, investigation, research, and analysis
13 available to the public; and

14 (3) Any and all other acts reasonably designed to promote
15 the foregoing purposes in the interest of promoting
16 the general welfare of the people of the State.

17 (c) The corporation's duties shall include but not be
18 limited to:

19 (1) Managing the assets and resources of the corporation,
20 including its land, facilities, and other resources;

21 (2) Planning, creating, and implementing any programs and
22 projects of the authority that shall be assigned to



1 the corporation, including federally-funded and state-
2 funded programs, and projects and programs funded by
3 other nonprofit and for-profit organizations;

4 (3) Identifying and obtaining funding and other resources
5 in support of the purposes of the corporation from
6 agencies and organizations not able to provide
7 resources directly to the authority;

8 (4) Assisting the authority in the promotion and marketing
9 of Hawaii as a location for research and commercial
10 natural energy activity; and

11 (5) Assisting the authority in any other strategic or
12 operational manner that supports the State's energy-
13 based economic development activities.

14 The corporation shall have the sole right to provide the
15 foregoing services and support to the authority, and the
16 authority shall use the corporation to provide these services
17 and support except when the authority determines that the
18 corporation may not or cannot legally or operationally provide
19 these services and support.

20 **§227D- Board of directors; composition.** (a) The
21 affairs of the corporation shall be under the general management
22 and control of a board of directors consisting of nine members.



1 Four members of the board of directors of the authority shall be
2 ex officio, voting members of the corporation's board, selected
3 by the authority's board of directors for terms to be determined
4 by the authority's board of directors. The chief executive
5 officer of the authority shall serve as an ex officio, nonvoting
6 member of the corporation's board. The remaining four members
7 shall be appointed by the governor from lists of nominees
8 provided by the president of the senate and the speaker of the
9 house of representatives. The governor shall appoint two
10 persons from the list submitted by the president of the senate
11 and two persons from the list submitted by the speaker of the
12 house of representatives. The lists of nominees provided by the
13 president of the senate and the speaker of the house of
14 representatives shall consist of members of the general public
15 who were selected on the basis of their knowledge, interest, and
16 proven expertise in but not limited to one or more of the
17 following fields:

- 18 (1) Finance;
- 19 (2) Commerce and trade;
- 20 (3) Corporate management;
- 21 (4) Marketing;
- 22 (5) Economics;



- 1 (6) Engineering;
- 2 (7) Energy management;
- 3 (8) Real estate development;
- 4 (9) Property management;
- 5 (10) Aquaculture;
- 6 (11) Ocean science;
- 7 (12) Life science; and
- 8 (13) Other natural energy fields.

9 All the members appointed from the general public shall serve
10 for a term of four years, provided that half of those initially
11 appointed from the public may have reduced terms so as to
12 provide, as nearly as can be, for the expiration of an equal
13 number of terms at intervals of one year, with each term
14 commencing on July 1 and expiring on June 30.

15 (b) All members of the corporation's board shall serve
16 without pay, but shall be entitled to reimbursement for
17 necessary expenses, including travel expenses, while attending
18 meetings and while in the discharge of their duties and
19 responsibilities.

20 (c) The members of the corporation's board shall elect the
21 chairperson of the board.



1 **§227D- Powers of the corporation.** The corporation,
2 under the direction of its board of directors, shall have the
3 following general powers and duties:

- 4 (1) To promote the use of alternative energy and natural
5 resource sites for the purposes provided by law;
- 6 (2) To adopt, amend, and repeal bylaws governing the
7 conduct of its business and the exercise of the powers
8 and performance of duties granted to or imposed upon
9 it by law;
- 10 (3) To acquire, own, lease, rent, hold, maintain and
11 improve, use, and operate any property, including
12 real, personal, or mixed property, whether tangible or
13 intangible, in accordance with the conditions under
14 which the property was received;
- 15 (4) To enter into and perform contracts, leases,
16 cooperative agreements, or other transactions with the
17 authority or any other agency or political subdivision
18 of the State, any private person, firm, partnership,
19 association, company, or corporation, as it may deem
20 necessary in the conduct of its business and on terms
21 as it may deem appropriate; provided that:



1 (A) The corporation shall not obligate any funds of
2 the State except funds that have been
3 appropriated to it by the legislature or
4 transferred or contracted to it by the authority
5 or other agency or department of state
6 government;

7 (B) Notwithstanding subparagraph (A), the corporation
8 may enter into and perform contracts, leases,
9 cooperative agreements, or other transactions
10 with any agency or instrumentality of the United
11 States, a foreign nation, a state, a territory,
12 or a possession, or with any political
13 subdivision thereof, whenever the donating or
14 granting agency or instrumentality determines
15 that the natural energy laboratory of Hawaii
16 authority or any other agency of the State cannot
17 as effectively and efficiently accomplish the
18 purposes for which the contracts, leases,
19 cooperative agreements, or other transactions are
20 being entered into; and provided further that the
21 corporation shall not obligate any funds of the



1 State except funds that have been appropriated or
2 transferred or contracted to it; and

3 (C) The corporation shall not contract with the
4 authority for the purposes of providing any
5 services provided by employees of the authority,
6 and the authority's services and employees shall
7 remain under the jurisdiction of the authority;

8 (5) To receive from private sources, gifts, grants,
9 devises, bequests, or otherwise of any property,
10 including real, personal, or mixed property, whether
11 tangible or intangible, held absolutely or in trust,
12 the principal or income from which may be used and
13 disposed of in accordance with the conditions under
14 which the property was received; provided that no gift
15 to the corporation shall be accepted unless approved
16 or confirmed by its board of directors;

17 (6) The corporation may receive gifts, grants, or awards
18 from any agency or instrumentality of the United
19 States, a foreign nation, a state, a territory, or a
20 possession, or from any political subdivision thereof,
21 whenever the donating or granting agency or
22 instrumentality determines that the authority or any



1 other agency of the State cannot as effectively and
2 efficiently accomplish the purposes for which the
3 gifts, grants, or awards are being made; provided that
4 no gift to the corporation shall be accepted unless
5 approved or confirmed by its board of directors;

6 (7) To have a corporate seal and alter the same at its
7 pleasure;

8 (8) To sue and be sued in its own name;

9 (9) To serve as trustee or beneficiary under terms of any
10 gift, indenture, or will;

11 (10) To apply for, take out, receive by purchase or gift,
12 hold, administer, and dispose of copyrights, patent
13 rights, licenses, assignments of inventions,
14 discoveries, processes, and other property, rights, or
15 interests therein, and the income thereof, absolutely
16 or subject to conditions or trusts as may be attached
17 thereto or be imposed thereon, and to obligate itself
18 to perform and execute any and all conditions or
19 trusts;

20 (11) To conduct programs, projects, research, studies,
21 experiments, investigations, and tests in all fields
22 of knowledge to:



1 (A) Promote and develop the scientific and commercial
2 value of inventions, discoveries, and processes;
3 and

4 (B) Make, publish, and distribute the results
5 thereof;

6 (12) To coordinate and correlate activities and projects of
7 the corporation with the work of state agencies for
8 the purpose of relating research work to the economic
9 development of the State whenever practical or
10 desirable;

11 (13) To stimulate and promote commercial, energy,
12 aquaculture, and research projects and activities;

13 (14) To establish and maintain, or to assist in
14 establishing and maintaining, staff positions for the
15 purpose of aiding in energy-based economic development
16 and to enter into agreements or contracts with other
17 corporations, organizations, institutions, or persons
18 for this purpose and to pay the necessary and
19 appropriate expenses therefor;

20 (15) To prepare, print, or publish any manuscript, research
21 article, report, study, discussion, reference,
22 collection, or any pictorial or schematic



1 representation or group or collection thereof, whether
 2 the same belongs to or is the work of any state agency
 3 or its employees, or the corporation or its employees,
 4 or a contractor of the authority. The printing or
 5 publication may be accomplished through whatever
 6 person, company, or agency is deemed most appropriate
 7 by the corporation's board of directors; and

8 (16) To do any or all other acts reasonably necessary to
 9 carry out the objectives and purposes of the
 10 authority.

11 **§227D- Corporation; exempted from certain state laws.**

12 To carry out the purposes and objectives of this part, the
 13 corporation shall be granted flexibility in hiring its personnel
 14 and in handling and disbursing moneys by being exempt from the
 15 following state laws:

16 (1) Sections 36-27 and 36-30, relating to transfers from
 17 special funds for central services expenses and
 18 special fund reimbursements for departmental
 19 administrative expenses;

20 (2) Chapter 40, related to public audit and accounting;

21 (3) Chapter 76, relating to civil service;

22 (4) Section 78-1, relating to public employment; and



1 (5) Chapter 103D, relating to public procurement.

2 Notwithstanding any other law to the contrary, the
3 corporation shall be authorized to set up private accounts for
4 depositing moneys received from either public or private
5 contracts, or from private or public grants, awards, or gifts.
6 All disbursements shall be drawn on these accounts upon checks
7 prepared and signed as approved by the president of the
8 corporation or other person authorized by the board of directors
9 of the corporation.

10 **§227D- Officers and employees of the corporation.** The
11 chief executive officer of the authority shall serve as the
12 president of the corporation. The corporation's president, with
13 the agreement of the corporation's board of directors, may also
14 appoint other officers and employees as may be necessary in
15 administering the affairs of the corporation. The corporation's
16 president, with the agreement of the corporation's board of
17 directors, shall set the employees' duties, responsibilities,
18 salaries, holidays, vacation, leave, hours of work, and working
19 conditions, and may grant other benefits the president deems
20 necessary. Employees of the corporation shall not be entitled
21 to any benefits conferred under chapter 76, 78, 88, 89, or any



1 public employee collective bargaining agreement, executive
2 order, executive directive, or rule.

3 **§227D- Annual report.** The corporation shall submit an
4 annual report, not later than twenty days prior to the convening
5 of each regular session, to the governor, the president of the
6 senate, and the speaker of the house of representatives. The
7 report shall include but not be limited to the corporation's
8 audited financial statement, total amount of payroll and other
9 disbursements made, and progress and accomplishments made during
10 the year.

11 **§227D- Dissolution.** If the corporation is dissolved,
12 all of its property, including real, personal, and mixed
13 property, wherever situated, shall vest immediately and
14 absolutely in the authority, and none of its property shall
15 inure to the benefit of any officer, director, or member of the
16 corporation.

17 **§227D- Meetings of the board of directors.** The meetings
18 of the corporation's board of directors shall be open to the
19 public as provided in section 92-3, except that when it is
20 necessary for the board to receive information that:



1 (1) Is proprietary to a particular enterprise seeking
2 entry into or the use of one of the corporation's
3 facilities; and

4 (2) Might be harmful to the business interest of the
5 enterprise if disclosed,
6 the board may enter into an executive meeting that is closed to
7 the public; provided that the executive meeting shall be limited
8 to discussion or consideration of trade secrets or confidential
9 or proprietary commercial or financial information to the extent
10 that the trade secrets or information fall within the exception
11 to public disclosure under section 92F-13.

12 **§227D- Confidentiality of information.** Any government
13 record made or received by any member or employee of the
14 corporation shall be subject to segregation and kept
15 confidential to the extent permitted under chapter 92F; provided
16 that the information:

- 17 (1) Consists of business trade secrets; or
18 (2) Consists of confidential or proprietary commercial or
19 financial information regarding the operation of any
20 business.

21 **§227D- Patents, copyrights, and other rights.** Any
22 patents, copyrights, inventions, discoveries, or other rights



1 arising from corporation activities shall belong to the
2 corporation and be subject to policies or rules as the
3 corporation's board of directors may adopt pursuant to chapter
4 91.

5 **§227D- Contracts with state agencies.** Any contract
6 between the corporation and any agency, office, department, or
7 other administrative subdivision of the executive branch of the
8 State shall include the following:

- 9 (1) The contract's termination date;
10 (2) The contract's intent and purpose;
11 (3) A statement establishing the full permissible extent
12 of the contract's applicability; and
13 (4) A description of the circumstances under which the
14 contract may be amended or extended."

15 SECTION 3. Section 26-18, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) The following are placed in the department of
18 business, economic development, and tourism for administrative
19 purposes as defined by section 26-35: Aloha Tower development
20 corporation, Hawaii community development authority, high
21 technology development corporation, land use commission, natural
22 energy laboratory of Hawaii authority, natural energy laboratory



1 of Hawaii authority innovation corporation, and any other boards
2 and commissions as shall be provided by law.

3 The department of business, economic development, and
4 tourism shall be empowered to establish, modify, or abolish
5 statistical boundaries for cities, towns, or villages in the
6 State and shall publish, as expeditiously as possible, an up-to-
7 date list of cities, towns, and villages after changes to
8 statistical boundaries have been made."

9 SECTION 4. Chapter 227D, Hawaii Revised Statutes, is
10 amended by designating sections 227D-1 to 227D-9 as part I and
11 inserting a title before section 227D-1 to read as follows:

12 "PART I. GENERAL AND ADMINISTRATIVE PROVISIONS".

13 SECTION 5. New statutory material is underscored.

14 SECTION 6. This Act shall take effect upon approval.

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Report Title:

Natural Energy Laboratory; Innovation Corporation

Description:

Establishes the natural energy laboratory of Hawaii innovation corporation.

