GOV. MSG. NO. 772

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

June 25, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 25, 2009, the following bill was signed into law:

HB1464 HD3 SD2 CD1 — A BILL FOR AN ACT
RELATING TO ENERGY RESOURCES.
ACT 155 (09)

Sincerely,

LINDA LINGLE

Approved by the Governor
on JUN 25 2009

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

ACT 155
H.B. NO. 1464 H.D. 3 S.D. 2 C.D. 1

A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

PART I

PURPOSE

SECTION 1. Attaining independence from our detrimental reliance on fossil fuels has been a long-standing objective for the State.

Hawaii is the state most dependent on petroleum for its energy needs. It pays the highest electricity prices in the United States, and its gasoline costs are among the highest in the country. Fuel surcharges that pass the increases in fuel costs to consumers have significantly increased the cost of over eighty per cent of the goods and services sold in Hawaii. Household fuels and utilities costs rose 36.4 per cent, from the previous year, as reflected in the Honolulu consumer price index during the second quarter of 2008. Hawaii's energy costs approach eleven per cent of its gross domestic product, whereas in most states energy costs are four per cent of gross domestic product. Between 2005 and 2008, state government consumption of

electricity increased 3.9 per cent, but expenditures increased 56.8 per cent.

Reducing our oil dependence and the consequent price volatility and attaining energy security are critical. More than ninety-six per cent of petroleum in Hawaii now comes from foreign sources. Clean energy from indigenous renewable resources has the potential to provide an estimated one hundred fifty per cent of current installed electrical capacity.

On January 28, 2008, the signing of a memorandum of understanding between the State of Hawaii and the United States Department of Energy launched the Hawaii clean energy initiative. This initiative and long-term partnership between Hawaii and the United States Department of Energy is aimed at accelerating the use and development of energy efficiency and renewable energy technologies; allowing Hawaii to serve as a model and demonstration for the United States and other island communities; and developing a national partnership to accelerate system transformation, whereby the following goals are attained:

(1) Achieve a seventy per cent clean energy economy for Hawaii within a generation;

(2) Increase Hawaii's energy security;

(3) Capture economic benefits of clean energy for all levels of society;

(4) Contribute to greenhouse gas reduction;

(5) Foster and demonstrate innovation;

(6) Build the workforce of the future; and

(7) Serve as a national model.

The purpose of this Act is to provide a first step in aligning Hawaii's energy policy laws with the State's energy goals. For Hawaii to realize energy independence and economic stability, the transformation of its energy system must encompass changes to:

(1) Hawaii's policy and regulatory framework;

(2) System-level technology development and integration;

(3) Financing or capital investment; and

(4) Institutional system planning.

To enable energy efficiency and renewable energy resources to meet forty per cent of Hawaii's energy demand by 2030, the Hawaii clean energy initiative set goals for energy efficiency, renewable and indigenous electricity production, energy delivery and improvements to the electrical grid, and diversification of energy sources for transportation. The initiatives to achieve these goals were developed by the United States Department of

Energy, the department of business, economic development, and tourism, and members of the five Hawaii clean energy initiative working groups during 2008. This effort presents a range of measures to reach aggressive energy goals while balancing the interests of various stakeholders.

PART II

RENEWABLE PORTFOLIO STANDARDS

SECTION 2. Section 269-91, Hawaii Revised Statutes, is amended by amending the definitions of "renewable electrical energy" and "renewable energy" to read as follows:

""Renewable electrical energy" means:

(1) Electrical energy generated using renewable energy as the source; and

(2) Electrical energy savings brought about by [~~the~~]:

(A) The use of renewable displacement or off-set technologies, including solar water heating, sea-water air-conditioning district cooling systems, solar air-conditioning, and customer-sited, grid-connected renewable energy systems; provided that, beginning January 1, 2015, electrical energy savings shall not include customer-sited, grid-connected renewable-energy systems; or

[~~[(3)] Electrical energy savings brought about by the~~]

(B) The use of energy efficiency technologies, including heat pump water heating, ice storage, ratepayer-funded energy efficiency programs, and use of rejected heat from co-generation and combined heat and power systems, excluding fossil-fueled qualifying facilities that sell electricity to electric utility companies and central station power projects.

"Renewable energy" means energy generated or produced [~~utilizing~~] using the following sources:

(1) Wind;

(2) The sun;

(3) Falling water;

(4) Biogas, including landfill and sewage-based digester gas;

(5) Geothermal;

(6) Ocean water, currents, and waves[~~,~~], including ocean thermal energy conversion;

(7) Biomass, including biomass crops, agricultural and animal residues and wastes, and municipal solid waste and other solid waste;

(8) Biofuels; and

(9) Hydrogen produced from renewable energy sources."

SECTION 3. Section 269-92, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Each electric utility company that sells electricity for consumption in the [~~State~~] state shall establish a renewable portfolio standard of:

(1) Ten per cent of its net electricity sales by December 31, 2010;

(2) Fifteen per cent of its net electricity sales by December 31, 2015; [~~and~~]

(3) [~~Twenty~~] Twenty-five per cent of its net electricity sales by December 31, 2020[~~.~~]; and

(4) Forty per cent of its net electricity sales by December 31, 2030.

(b) The public utilities commission may establish standards for each utility that prescribe what portion of the renewable portfolio standards shall be met by specific types of renewable [~~electrical~~] energy resources; provided that:

(1) [~~At~~] Prior to January 1, 2015, at least fifty per cent of the renewable portfolio standards shall be met by electrical energy generated using renewable energy as

the source[~~.~~], and after December 31, 2014, the entire renewable portfolio standard shall be met by electrical generation from renewable energy sources;

(2) Beginning January 1, 2015, electrical energy savings shall not count toward renewable energy portfolio standards;

[~~(2)~~] (3) Where electrical energy is generated or displaced by a combination of renewable and nonrenewable means, the proportion attributable to the renewable means shall be credited as renewable energy; and

[~~(3)~~] (4) Where fossil and renewable fuels are co-fired in the same generating unit, the unit shall be considered to generate renewable electrical energy (electricity) in direct proportion to the percentage of the total heat input value represented by the heat input value of the renewable fuels."

SECTION 4. Section 269-95, Hawaii Revised Statutes, is amended to read as follows:

"**§269-95 Renewable portfolio standards study.** The public utilities commission shall:

(1) By December 31, 2007, develop and implement a utility ratemaking structure, which may include performance-

based ratemaking, to provide incentives that encourage Hawaii's electric utility companies to use cost-effective renewable energy resources found in Hawaii to meet the renewable portfolio standards established in section 269-92, while allowing for deviation from the standards in the event that the standards cannot be met in a cost-effective manner or as a result of events or circumstances, such as described in section 269-92(d), beyond the control of the utility that could not have been reasonably anticipated or ameliorated;

(2) Gather, review, and analyze empirical data to [~~determine~~]:

(A) Determine the extent to which any proposed utility ratemaking structure would impact electric utility companies' profit margins [~~and to ensure~~]; and

(B) Ensure that the electric utility companies' opportunity to earn a fair rate of return is not diminished;

(3) [~~Using~~] Use funds from the public utilities special fund[~~,~~] to contract with the Hawaii natural energy

institute of the University of Hawaii to conduct independent studies to be reviewed by a panel of experts from entities such as the United States Department of Energy, National Renewable Energy Laboratory, Electric Power Research Institute, Hawaii electric utility companies, environmental groups, and other similar institutions with the required expertise. These studies shall include findings and recommendations regarding:

(A) The capability of Hawaii's electric utility companies to achieve renewable portfolio standards in a cost-effective manner and shall assess factors such as [~~the~~]:

(i) The impact on consumer rates[~~, utility~~];

(ii) Utility system reliability and stability[~~, costs~~];

(iii) Costs and availability of appropriate renewable energy resources and technologies[~~, permitting~~];

(iv) Permitting approvals[~~, effects~~];

(v) Effects on the economy[~~, balance~~];

(vi) Balance of trade, culture, community, environment, land, and water[~~, climate~~];

(vii) Climate change policies[~~, demographics~~];

(viii) Demographics[~~,~~]; and [~~other~~]

(ix) Other factors deemed appropriate by the commission;

and

(B) Projected renewable portfolio standards to be set five and ten years beyond the then current standards;

(4) [~~Revise~~] Evaluate the renewable portfolio standards every five years, beginning in 2013, and may revise the standards based on the best information available at the time [~~if the results of the studies conflict with~~] to determine if the [~~renewable portfolio~~] standards established by section 269-92[~~,~~] remain effective and achievable; and

(5) Report its findings and revisions to the renewable portfolio standards, based on its own studies and [~~those contracted under paragraph (3),~~] other information to the legislature no later than twenty

days before the convening of the regular session of [~~2009,~~] 2014, and every five years thereafter."

PART III

ENERGY RESOURCES COORDINATOR

SECTION 5. Section 196-4, Hawaii Revised Statutes, is amended to read as follows:

"**§196-4 Powers and duties.** Subject to the approval of the governor, the coordinator shall:

(1) Formulate plans, including objectives, criteria to measure accomplishment of objectives, programs through which the objectives are to be attained, and financial requirements for the optimum development of Hawaii's energy resources;

(2) Conduct systematic analysis of existing and proposed energy resource programs, evaluate the analysis conducted by government agencies and other organizations and recommend [~~to the governor and to the legislature~~] programs [~~which~~] that represent the most effective allocation of resources for the development of energy sources;

(3) Formulate and recommend specific proposals, as necessary, for conserving energy and fuel, including

the allocation and distribution thereof[~~, to the governor and to the legislature~~];

(4) Assist public and private agencies in implementing energy conservation and efficiency programs, the development of indigenous energy resources, and related measures;

(5) Coordinate the State's energy [~~conservation and allocation~~] programs with [~~that~~] those of the federal government, other state governments, governments of nations with interest in common energy resources, and the political subdivisions of the State;

(6) Develop programs to encourage private and public exploration [~~and~~], research, and development of [~~alternative~~] indigenous energy resources [~~which~~] that will benefit the State;

(7) Conduct public education programs to inform the public of the energy situation as may exist from time to time and of the government actions taken thereto;

(8) Serve as consultant to the governor, public agencies, and private industry on energy-related matters [~~related to the acquisition, utilization and conservation of energy resources~~];

(9) Contract for services when required for implementation of this chapter;

(10) Review proposed state actions [~~which~~] that the coordinator finds to have significant effect on [~~energy consumption~~] the State's energy objectives and report to the governor their effect on the energy [~~conservation~~] program, and perform [~~such~~] other services as may be required by the governor and the legislature;

(11) Prepare and submit an annual report and [~~such~~] other reports as may be requested to the governor and to the legislature on the implementation of this chapter and all matters related to energy resources; [~~and~~]

(12) Formulate a systematic process, including the development of requirements, to identify geographic areas that are rich with renewable energy resource potential that can be developed in a cost-effective and environmentally benign manner and designate these areas as renewable energy zones;

(13) Develop and recommend incentives, plans, and programs to encourage the development of renewable energy resource projects within the renewable energy zones;

(14) Assist public and private agencies in identifying utility transmission projects or infrastructure required to accommodate and facilitate the development of renewable energy resources;

(15) Assist public and private agencies, in coordination with the department of budget and finance, in accessing the use of special purpose revenue bonds to finance the engineering, design, and construction of transmission projects and infrastructure that are deemed critical to the development of renewable energy resources;

(16) Develop the criteria or requirements for identifying and qualifying specific transmission projects and infrastructure that are critical to the development of renewable energy resources, including providing assistance in accessing the use of special purpose revenue bonds to finance the projects or infrastructure;

(17) Develop and maintain a comprehensive and systematic quantitative and qualitative capacity to analyze the status of energy resources, systems, and markets, both in-state and those to which Hawaii is directly tied,

particularly in relation to the State's economy, and to recommend, develop proposals for, and assess the effectiveness of policy and regulatory decisions, and conduct energy emergency planning; and

[~~(12)~~] (18) Adopt rules for the administration of this chapter pursuant to chapter 91[~~, provided that the rules shall be submitted to the legislature for review~~]."

PART IV

RENEWABLE ENERGY FACILITATOR

SECTION 6. Section 201-12.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The renewable energy facilitator shall have the following duties:

(1) Facilitate the efficient permitting of renewable energy projects[~~.~~], including:

(A) The land parcel on which the facility is situated;

(B) Any renewable energy production structure or equipment;

(C) Any energy transmission line from the facility to a public utility's electricity system; and

(D) Any on-site infrastructure necessary for the production of electricity or biofuel from the renewable energy site;

(2) Initiate the implementation of key renewable energy projects by permitting various efficiency improvement strategies identified by the department;

(3) Administer the day-to-day coordination for renewable energy projects on behalf of the department and the day-to-day operations of the renewable energy facility siting process established in [~~[Act 207, Session Laws of Hawaii 2008],~~] chapter 201N; and

(4) Submit periodic reports to the legislature on renewable energy facilitation activities and the progress of the renewable energy facility siting process."

PART V

RENEWABLE ENERGY PERMITTING

SECTION 7. Section 201N-1, Hawaii Revised Statutes, is amended by amending the definition of "renewable energy facility" or "facility" to read as follows:

""Renewable energy facility" or "facility" means a new facility located in the [~~State~~] state with the capacity to

produce from renewable energy at least two hundred megawatts of electricity[~~.~~]; provided that an electricity production facility with a capability between five megawatts and one hundred ninety-nine megawatts of electricity and a biofuel production facility with a capacity to produce one million gallons or more annually may apply to the coordinator for designation as a renewable energy facility. The term includes any of the following associated with the initial permitting and construction of the facility:

(1) The land parcel on which the facility is situated;

(2) Any renewable energy production structure or equipment;

(3) Any energy transmission line from the facility to a public utility's electricity transmission or distribution system;

(4) Any on-site infrastructure; and

(5) Any on-site building, structure, other improvement, or equipment necessary for the production of electricity or biofuel from the renewable energy site, transmission of the electricity or biofuel, or any accommodation for employees of the facility."

SECTION 8. Section 201N-4, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Each appropriate state and county agency shall diligently endeavor to process and approve or deny any permit in the permit plan no later than twelve months after a completed permit plan application is approved by the coordinator. If the coordinator has given at least thirty days written notice stating that the permit plan application is subject to this section and a permit is not approved or denied within twelve months after approval of a completed permit plan application, the permitting agency, within thirty days following the end of the twelve-month period, shall provide the coordinator with a report identifying diligent measures that are being taken by the agency to complete processing and take action as soon as practicable. If no further processing and action are reported by the permitting agency within five months following the end of the thirty-day agency report period, the coordinator may deem the permit approved. If a permitting agency fails to provide this report identifying diligent measures and if the permit has not been approved or denied within eighteen months following the approval of a completed permit plan application by the coordinator, the permit shall be deemed approved."

SECTION 9. There is appropriated out of the renewable energy facility siting special fund the sum of $1,000,000 or so much thereof as may be necessary for fiscal year 2009-2010 and the sum of $1,000,000 or so much thereof as may be necessary for fiscal year 2010-2011.

The sums appropriated shall be expended by the department of business, economic development, and tourism for the purposes of the renewable energy facility siting special fund as set forth in section 201N-11, Hawaii Revised Statutes.

PART VI

ENERGY EFFICIENCY

SECTION 10. In January 2008, the United States Department of Energy and the State of Hawaii signed a memorandum of understanding to strengthen cooperation to implement clean energy technologies that will increase energy-efficiency and maximize use of the State's vast and abundant renewable resources. The legislature finds that the establishment of this long-term partnership, called the Hawaii Clean Energy Initiative, is designed to transform Hawaii's energy system into one that uses renewable energy and energy-efficient technologies for a significant portion of its energy needs. The partnership aims to put Hawaii on a path to supply seventy per cent of its

energy needs using clean energy by 2030, which can significantly reduce Hawaii's current crude oil consumption. This type of clean energy transformation will help to stabilize and strengthen Hawaii's economy by reducing its dependency on imported fossil fuels and protect its environment by sharply reducing greenhouse gas emissions.

The United States Department of Energy, as a leader in clean energy technologies, is working with the State of Hawaii to further the potential of its natural resources, including wind, sun, and bioenergy resources, and engage experts in clean energy technology development to help Hawaii launch projects in conjunction with public and private sector partners that target opportunities and address critical needs for Hawaii's transition to a clean energy economy, including:

(1) Designing cost-effective approaches for the exclusive use of renewable energy on smaller islands;

(2) Designing systems to improve the stability of electric grids operating with variable generating sources, such as wind power plants on the islands of Hawaii and Maui;

(3) Minimizing energy use while maximizing energy-efficiency and renewable energy technologies at new large military housing developments;

(4) Expanding Hawaii's capability to use locally-grown crops and by-products for producing fuel and electricity; and

(5) Assisting in the development of comprehensive energy regulatory and policy frameworks for promoting clean energy technology use.

Similar to the establishment of a renewable energy portfolio standard, an energy-efficiency portfolio standard sets a target of electricity-use reduction to be achieved in incremental stages, as end-use energy-efficiency programs can make a significant and cost-effective contribution to achieving the goals and objectives of the Hawaii Clean Energy Initiative.

The purpose of this part is to maximize cost-effective energy-efficiency programs and technologies to achieve electricity-use reductions to the maximum extent feasible by establishing an energy-efficiency portfolio standard, making public buildings more energy-efficient, disclosing a property's energy consumption at the time of sale, and establishing a

building energy efficiency revolving loan fund, to achieve electricity use reductions to the maximum extent feasible.

SECTION 11. The Hawaii Revised Statutes is amended by adding three new sections to be appropriately designated and to read as follows:

"**§ - Energy-efficiency portfolio standards.** (a) The public utilities commission shall establish energy-efficiency portfolio standards that will maximize cost-effective energy-efficiency programs and technologies.

(b) The energy-efficiency portfolio standards shall be designed to achieve four thousand three hundred gigawatt hours of electricity use reductions statewide by 2030; provided that the commission shall establish interim goals for electricity use reduction to be achieved by 2015, 2020, and 2025 and may also adjust the 2030 standard by rule or order to maximize cost-effective energy-efficiency programs and technologies.

(c) The commission may establish incentives and penalties based on performance in achieving the energy-efficiency portfolio standards by rule or order.

(d) The public utilities commission shall evaluate the energy-efficiency portfolio standard every five years, beginning in 2013, and may revise the standard, based on the best

information available at the time, to determine if the energy-efficiency portfolio standard established by this section remains effective and achievable. The commission shall report its findings and revisions to the energy-efficiency portfolio standard, based on its own studies and other information, to the legislature no later than twenty days before the convening of the regular session of 2014, and every five years thereafter.

(e) Beginning in 2015, electric energy savings brought about by the use of renewable displacement or off-set technologies, including solar water heating and seawater air conditioning district cooling systems, shall count toward this standard.

§ - Public buildings; benchmarks; retro-commissioning guidelines; energy savings performance contracts. (a) By December 31, 2010, each state department with responsibilities for the design and construction of public buildings and facilities shall benchmark every existing public building that is either larger than five thousand square feet or uses more than eight thousand kilowatt-hours of electricity or energy per year and shall use the benchmark as a basis for determining the State's investment in improving the efficiency of its own building stock. Benchmarking shall be conducted using the

ENERGY STAR portfolio management or equivalent tool. The energy resources coordinator shall provide training to affected departments on the ENERGY STAR portfolio management or equivalent tool.

(b) Public buildings shall be retro-commissioned no less often than every five years. The energy resources coordinator shall establish retro-commissioning guidelines by January 1, 2010.

(c) Departments may enter into energy savings performance contracts with a third party to cover the capital costs of energy-efficiency measures and distributed generation provided the terms of the energy savings performance contracts conform to the benchmark standard. The comptroller may review and exempt specific projects as appropriate to take into account cost-effectiveness.

Energy savings performance contracts shall be executed according to state guidelines issued by the comptroller, and the contracts shall be reviewed by the comptroller. To expedite energy savings performance contracting for public buildings, the department of accounting and general services shall develop a master energy savings performance contracts agreement that any department may use to contract with an energy savings

performance contracts provider for energy-efficiency and renewable energy services.

(d) For existing public buildings that undergo a major retrofit or renovation, the department or departments responsible for design and construction shall make investments in efficiency; provided that the cost of the measures shall be recouped within twenty years.

§ - Energy-efficiency consumer information in sale or lease of real property. Prior to the sale of residential real property, the property owner shall make a good faith declaration of electricity cost based on the most recent three-month period in which the property was occupied prior to the date of the seller's disclosure, pursuant to chapter 508D. This declaration shall only apply where the owner directly pays the electrical utility bills, and shall not apply in the case of a foreclosure of residential real property or where there are no electrical utility accounts associated with the property."

SECTION 12. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"**§201- Building energy efficiency revolving loan fund.** (a) There is established in the state treasury the building energy efficiency revolving loan fund which shall be

administered by the department, and into which shall be deposited:

(1) Funds from federal, state, county, private, or other funding sources;

(2) Moneys received as repayment of loans and interest payments; and

(3) Any fees collected by the department under this section.

(b) Moneys in the building energy efficiency revolving loan fund shall be used to provide low or no interest loans or other authorized financial assistance to eligible public, private, and nonprofit borrowers to make energy efficiency improvements in buildings. Moneys from the fund may be used to cover administrative and legal costs of fund management and management associated with individual loans, to include personnel, services, technical assistance, data collection and reporting, materials, equipment, and travel for the purposes of this section.

(c) Appropriations or authorizations from the fund shall be expended by the department. The department may contract with other public or private entities for the provision of all or a portion of the services necessary for the administration and

implementation of the loan fund program. The department may set fees or charges for fund management and technical site assistance provided under this section. The department may adopt rules pursuant to chapter 91 to carry out the purposes of this section.

(d) All interest earned on the deposit or investment of the moneys in the fund shall become a part of the fund.

(e) The department may establish subaccounts within the fund as necessary."

PART VII

SOLAR WATER HEATER SYSTEM

SECTION 13. It is the intent of the legislature that the variances provided for in Act 204, Session Laws of Hawaii 2008, (Act 204) will be rarely, if ever, exercised or granted because the burden of proof will lie with the applicant to demonstrate that a solar water heater system, regardless of location or circumstance, is not cost effective in the context of a thirty-year mortgage term. This requires the use of realistic assumptions regarding interest rates, discount rates, inflation rates, and the expected average cost of electricity by island over the thirty-year period, regardless of the cost of

electricity, or of oil or other fossil fuels, at a specific time.

The legislature finds that it is necessary to clarify the intent of the variance provision that allows for a demand water heater device. There is the potential that this provision may be used to allow a developer/builder, the purchaser of a water heating device, of a single-family dwelling, to circumvent the policy objectives of Act 204.

In its deliberation of Act 204, the legislature found that the installation of a solar water heater system will only occur if the developer or builder was able to recover the cost of the investment from the consumer, who ultimately enjoys the energy savings. Therefore, a solar water heater mandate was necessary to ensure that an energy savings could be realized by the consumer, without which the housing market would be sensitive to certain price points that do not factor in the cost-effectiveness of energy efficiency devices that reduce the overall energy cost of a home to benefit the consumer.

The legislature further found that retrofitting a home for a solar water heater after it was constructed was more costly, and that such upfront costs, despite incentives such as state and federal tax credits and utility rebates, were substantial

barriers for the average consumer. The financial barriers can be addressed, however, by including the installation of a solar water heater into the purchase price and mortgage of a home, where the cost of the system may pay for itself immediately.

Therefore, the legislature intended for a consumer to have the option to use gas appliances with the full knowledge that such a system may be more costly and less efficient. To obviate any attempt to circumvent Act 204, then, the legislature intends that if the potential variance applicant is not the party who will ultimately pay for the energy cost consumption, then only paragraph (1), (2), or (3) of subsection (a) in section 196-6.5, Hawaii Revised Statutes, should apply.

Additionally, the legislature finds that the continuation of the renewable energy income tax credit needs to remain available for all homes built before January 1, 2010.

The purpose of this part, is to clarify the provisions of Act 204, to carry out the legislature's intent.

SECTION 14. Section 196-6.5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) On or after January 1, 2010, no building permit shall be issued for a <u>new</u> single-family dwelling that does not include a solar water heater system that meets the standards established

pursuant to section 269-44, unless the energy resources coordinator approves a variance. A variance application shall only be [~~approved~~] accepted if submitted by an architect or mechanical engineer licensed under chapter 464, who attests that:

(1) Installation is impracticable due to poor solar resource;

(2) Installation is cost-prohibitive based upon a life cycle cost-benefit analysis that incorporates the average residential utility bill and the cost of the new solar water heater system with a life cycle that does not exceed fifteen years;

(3) A [~~substitute~~] renewable energy technology system, as defined in section 235-12.5, is [~~used~~] substituted for use as the primary energy source for heating water; or

(4) A demand water heater device approved by Underwriters Laboratories, Inc., is installed; provided that at least one other gas appliance is installed in the dwelling. For the purposes of this paragraph, "demand water heater" means a gas-tankless instantaneous water heater that provides hot water only as it is needed.

(b) A request for a variance shall be submitted to the energy resources coordinator on an application prescribed by the energy resources coordinator and shall include [~~, but not be limited to ,~~] a description of the location of the property and justification for the approval of a variance using the criteria established in subsection (a). A variance shall be deemed approved if not denied within thirty working days after receipt of the variance application. The energy resources coordinator shall publicize:

(1) All applications for a variance within seven days after receipt of the variance application; and

(2) The disposition of all applications for a variance within seven days of the determination of the variance application."

SECTION 15. Section 235-12.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) When the requirements of subsection (c) are met, each individual or corporate taxpayer that files an individual or corporate net income tax return for a taxable year may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for every eligible renewable energy technology system

that is installed and placed in service in the [~~State~~] state by a taxpayer during the taxable year. This credit shall be available for systems installed and placed in service in the [~~State~~] state after June 30, 2003. The tax credit may be claimed as follows:

(1) Solar thermal energy systems for:

(A) Single-family residential property for which a building permit for a single-family dwelling was issued prior to January 1, 2010: thirty-five per cent of the actual cost or $2,250, whichever is less;

(B) Multi-family residential property: thirty-five per cent of the actual cost or $350 per unit, whichever is less; and

(C) Commercial property: thirty-five per cent of the actual cost or $250,000, whichever is less;

(2) Wind-powered energy systems for:

(A) Single-family residential property: twenty per cent of the actual cost or $1,500, whichever is less; provided that if all or a portion of the system is used to fulfill the substitute renewable energy technology requirement pursuant

to section 196-6.5(a)(3), the credit shall be reduced by twenty per cent of the actual system cost or $1,500, whichever is less;

(B) Multi-family residential property: twenty per cent of the actual cost or $200 per unit, whichever is less; and

(C) Commercial property: twenty per cent of the actual cost or $500,000, whichever is less; and

(3) Photovoltaic energy systems for:

(A) Single-family residential property: thirty-five per cent of the actual cost or $5,000, whichever is less; provided that if all or a portion of the system is used to fulfill the substitute renewable energy technology requirement pursuant to section 196-6.5(a)(3), the credit shall be reduced by thirty-five per cent of the actual system cost or $2,250, whichever is less;

(B) Multi-family residential property: thirty-five per cent of the actual cost or $350 per unit, whichever is less; and

(C) Commercial property: thirty-five per cent of the actual cost or $500,000, whichever is less;

provided that multiple owners of a single system shall be entitled to a single tax credit; and provided further that the tax credit shall be apportioned between the owners in proportion to their contribution to the cost of the system.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for every eligible renewable energy technology system that is installed and placed in service in the [~~State~~] state by the entity. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section 235-110.7(a)."

PART VIII

PUBLIC BENEFITS FEE ADMINISTRATOR

SECTION 16. Section 269-122, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The public utilities commission may contract with a third-party administrator, to operate and manage any programs established under section 269-121. The administrator shall not be deemed to be a "governmental body" as defined in section 103D-104; provided that all moneys transferred to the third-party administrator shall be comprised solely of public benefit fees collected pursuant to section 269-121[~~,~~] or from funds

provided by the federal government or by private funding sources. The administrator shall not expend more than ten per cent of the collected public benefits fees in any fiscal year, or other reasonable percentage determined by the public utilities commission, for administration of the programs established under section 269-121."

PART IX

HAWAII STATE PLANNING ACT

SECTION 17. Section 226-18, Hawaii Revised Statutes, is amended to read as follows:

"**§226-18 Objectives and policies for facility systems--energy.** (a) Planning for the State's facility systems with regard to energy shall be directed toward the achievement of the following objectives, giving due consideration to all:

(1) Dependable, efficient, and economical statewide energy systems capable of supporting the needs of the people;

(2) Increased energy self-sufficiency where the ratio of indigenous to imported energy use is increased;

(3) Greater energy security and diversification in the face of threats to Hawaii's energy supplies and systems; and

(4) Reduction, avoidance, or sequestration of greenhouse gas emissions from energy supply and use.

(b) To achieve the energy objectives, it shall be the policy of this State to ensure the short- and long-term provision of adequate, reasonably priced, and dependable energy services to accommodate demand.

(c) To further achieve the energy objectives, it shall be the policy of this State to:

(1) Support research and development as well as promote the use of renewable energy sources;

(2) Ensure that the combination of energy supplies and energy-saving systems is sufficient to support the demands of growth;

(3) Base decisions of least-cost supply-side and demand-side energy resource options on a comparison of their total costs and benefits when a least-cost is determined by a reasonably comprehensive, quantitative, and qualitative accounting of their long-term, direct and indirect economic, environmental, social, cultural, and public health costs and benefits;

(4) Promote all cost-effective conservation of power and fuel supplies through measures, including:

(A) Development of cost-effective demand-side management programs;

(B) Education; and

(C) Adoption of energy-efficient practices and technologies;

(5) Ensure, to the extent that new supply-side resources are needed, that the development or expansion of energy systems uses the least-cost energy supply option and maximizes efficient technologies;

(6) Support research, development, [~~and~~] demonstration, and use of energy efficiency, load management, and other demand-side management programs, practices, and technologies;

(7) Promote alternate fuels and transportation energy efficiency [~~by encouraging diversification of transportation modes and infrastructure~~];

(8) Support actions that reduce, avoid, or sequester greenhouse gases in utility, transportation, and industrial sector applications;

(9) Support actions that reduce, avoid, or sequester Hawaii's greenhouse gas emissions through agriculture and forestry initiatives; and

(10) Provide priority handling and processing for all state and county permits required for renewable energy projects."

PART X

MISCELLANEOUS

SECTION 18. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 19. This Act shall take effect on July 1, 2009.

APPROVED this 25 day of JUN , 2009

GOVERNOR OF THE STATE OF HAWAII