THE SENATE
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

S.B. NO. 1202 S.D. 2 H.D. 1

A BILL FOR AN ACT

RELATING TO TRANSPORTATION ENERGY INITIATIVES.

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

SECTION 1. The legislature finds that Hawaii must take bold steps toward reducing our dependence on imported fossil fuels. Our state imports ninety-five per cent of its energy, most of which comes from petroleum and coal. Eighty-nine per cent of Hawaii's energy is derived from petroleum and six per cent is derived from coal. Of all the energy consumed in the state, about forty per cent is used for transportation purposes, compared with eight per cent for residential uses, ten per cent for commercial uses, twenty-five per cent for generating electric power, and sixteen per cent for industrial uses.

The legislature finds, therefore, that it is essential for our State to aggressively promote and develop alternatives to fossil fuel modes of transportation. Alternative fuel and electric vehicles are a viable solution. Electrification of transportation creates jobs, fosters economic growth, reduces greenhouse gas emissions, and stems the effects of climate change in Hawaii.

The legislature also finds that developing an electric vehicle infrastructure is a first and essential step toward the transformation of transportation in Hawaii. With developing technology, along with a push by national and international automakers to expedite the production and supply of electric vehicles, Hawaii must be ready to embrace a new generation of highway transportation.

The purpose of this Act is to provide sufficient tools to develop an infrastructure for electric vehicles in Hawaii. Accordingly, this Act requires government agencies to lead the way in the electrification of transportation in the state, providing an aggressive but realistic timetable to replace fossil fuel vehicles with electric and alternative fuel vehicles.

PART I

PLANNING AND POLICY PRIORITIES

SECTION 2. Section 226-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) To achieve the potential growth activity objective, it shall be the policy of this State to:

(1) Facilitate investment and employment in economic activities that have the potential for growth such as

diversified agriculture, aquaculture, apparel and textile manufacturing, film and television production, and energy and marine-related industries[~~.~~]; (2) Expand Hawaii's capacity to attract and service international programs and activities that generate employment for Hawaii's people[~~.~~]; (3) Enhance and promote Hawaii's role as a center for international relations, trade, finance, services, technology, education, culture, and the arts[~~.~~]; (4) Accelerate research and development of new energy-related industries based on wind, solar, ocean, and underground resources and solid waste[~~.~~]; (5) Promote Hawaii's geographic, environmental, social, and technological advantages to attract new economic activities into the State[~~.~~]; (6) Provide public incentives and encourage private initiative to attract new industries that best support Hawaii's social, economic, physical, and environmental objectives[~~.~~]; (7) Increase research and the development of ocean-related economic activities such as mining, food production, and scientific research[~~.~~];

(8) Develop, promote, and support research and educational and training programs that will enhance Hawaii's ability to attract and develop economic activities of benefit to Hawaii [~~.~~] ;

(9) Foster a broader public recognition and understanding of the potential benefits of new, growth-oriented industry in Hawaii [~~.~~] ;

(10) Encourage the development and implementation of joint federal and state initiatives to attract federal programs and projects that will support Hawaii's social, economic, physical, and environmental objectives [~~.~~] ;

(11) Increase research and development of businesses and services in the telecommunications and information industries [~~.~~] ; and

(12) Foster the research and development of nonfossil fuel and energy efficient modes of transportation."

SECTION 3. 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 II

BUSINESS INCENTIVES AND REQUIREMENTS

SECTION 4. Chapter 291, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"**§291-A Designation of parking spaces for electric vehicles; charging units.** All public, private, and government parking facilities that are available for use by the general

public and have at least fifty parking spaces shall designate parking spaces exlusively for electric vehicles according to the following schedule:

(1) Two per cent of parking spaces by December 31, 2011;

(2) Four per cent of parking spaces by December 31, 2012;

(3) Six per cent of parking spaces by December 31, 2013;

(4) Eight per cent of parking spaces by December 31, 2014; and

(5) Ten per cent of parking spaces by December 31, 2015;

provided that the parking space for electric vehicles is located near the building entrance and is equipped with an electric vehicle charging unit. Spaces shall be designated, clearly marked, and enforced. Owners of multiple parking lots within the state may designate and electrify fewer parking spaces than required in one or more of their owned properties as long as the scheduled requirement is met for the total number of aggregate spaces on all of their owned properties.

For the purposes of this section, "electric vehicle" means an electric vehicle or neighborhood electric vehicle with an electric vehicle license plate.

§291-B Parking spaces reserved for electric vehicles; penalties. (a) Beginning January 1, 2011, any person who parks

a non-electric vehicle in a space designated and marked as reserved for electric vehicles shall receive a warning.

(b) Beginning July 1, 2011, any person who parks a non-electric vehicle in a space designated and marked as reserved for electric vehicles shall be guilty of a traffic infraction under chapter 291D and shall be fined not less than $50 nor more than $100 and pay any costs incurred by the court related to assessing the fine.

(c) Any citation issued under this section may be mailed to the violator pursuant to section 291C-165(b)."

SECTION 5. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of "public utility" to read as follows:

""Public utility":

(1) Includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the

furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the [~~State,~~] state, or between points within the [~~State,~~] state, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term shall include:

(A) Any person insofar as that person owns or operates a private sewer company or sewer facility; and

(B) Any telecommunications carrier or telecommunications common carrier;

(2) Shall not include:

(A) Any person insofar as that person owns or operates an aerial transportation enterprise;

(B) Persons owning or operating taxicabs, as defined in this section;

(C) Common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points that the public utilities commission finds to be

inadequately serviced without regulation under this chapter;

(D) Persons engaged in the business of warehousing or storage unless the commission finds that regulation thereof is necessary in the public interest;

(E) The business of any carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the [~~State~~] state and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally;

(F) The business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the [~~State~~] state or on luxury round-trip cruises returning to the point of departure;

(G) Any person who:

(i) Controls, operates, or manages plants or facilities for the production, transmission, or furnishing of power primarily or entirely from nonfossil fuel sources; and

(ii) Provides, sells, or transmits all of that power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public;

(H) A telecommunications provider only to the extent determined by the commission pursuant to section 269-16.9;

(I) Any person who controls, operates, or manages plants or facilities developed pursuant to chapter 167 for conveying, distributing, and transmitting water for irrigation and such other purposes that shall be held for public use and purpose;

(J) Any person who owns, controls, operates, or manages plants or facilities for the reclamation of wastewater; provided that:

(i) The services of the facility shall be provided pursuant to a service contract between the person and a state or county agency and at least ten per cent of the wastewater processed is used directly by the State or county which has entered into the service contract;

(ii) The primary function of the facility shall be the processing of secondary treated wastewater that has been produced by a municipal wastewater treatment facility that is owned by a state or county agency;

(iii) The facility shall not make sales of water to residential customers;

(iv) The facility may distribute and sell recycled or reclaimed water to entities not covered by a state or county service contract; provided that, in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or reclaimed water shall be voluntary and its pricing fair and reasonable. For purposes

of this subparagraph, "recycled water" and "reclaimed water" [~~mean~~] means treated wastewater that by design is intended or used for a beneficial purpose; and

(v) The facility shall not be engaged, either directly or indirectly, in the processing of food wastes; [~~and~~]

(K) Any person who owns, controls, operates, or manages any seawater air conditioning district cooling project; provided that at least fifty per cent of the energy required for the seawater air conditioning district cooling system is provided by a renewable energy resource, such as cold, deep seawater[~~.~~]; and

(L) Any person who owns, controls, operates, or manages plants or facilities primarily used to charge or discharge a vehicle battery that provides power for vehicle propulsion.

If the application of this chapter is ordered by the commission in any case provided in paragraphs (2)(C), (2)(D), (2)(H), and (2)(I), the business of any public utility that presents evidence of bona fide operation on the date of the

commencement of the proceedings resulting in the order shall be presumed to be necessary to public convenience and necessity, but any certificate issued under this proviso shall nevertheless be subject to such terms and conditions as the commission may prescribe, as provided in sections 269-16.9 and 269-20."

PART III

GOVERNMENT AGENCY REQUIREMENTS

SECTION 6. Section 103D-412, Hawaii Revised Statutes, is amended to read as follows:

"**§103D-412** [~~**Energy-efficient vehicles.**~~] **Light-duty motor vehicle requirements.** (a) The procurement policy for all agencies purchasing or leasing light-duty motor vehicles shall be to [~~obtain energy-efficient vehicles. All covered fleets are directed to procure increasing percentages of energy-efficient vehicles as part of their annual vehicle acquisition plans, which shall be as follows:~~

~~(1) In the fiscal year beginning July 1, 2006, at least twenty per cent of newly purchased light-duty vehicles acquired by each covered fleet shall be energy-efficient vehicles;~~

~~(2) In the fiscal year beginning July 1, 2007, at least thirty per cent of newly purchased light-duty vehicles~~

~~acquired by each covered fleet shall be energy-efficient vehicles;~~

~~(3) In the fiscal year beginning July 1, 2008, at least forty per cent of newly purchased light-duty vehicles acquired by each covered fleet shall be energy-efficient vehicles; and~~

~~(4) For each subsequent fiscal year, the percentage of energy-efficient vehicles newly purchased shall be five percentage points higher than the previous year, until at least seventy-five per cent of each covered fleet's newly purchased, light-duty vehicles are energy-efficient vehicles.~~] reduce dependence on petroleum for transportation energy.

(b) Beginning January 1, 2010, all state and county entities, when purchasing new vehicles, shall seek vehicles with reduced dependence on petroleum-based fuels that meet the needs of the agency. Priority for selecting vehicles shall be as follows:

(1) Electric or plug-in hybrid electric vehicles;

(2) Hydrogen or fuel cell vehicles;

(3) Other alternative fuel vehicles;

(4) Hybrid electric vehicles; and

(5) Vehicles that are identified by the United States Environmental Protection Agency in its annual "Fuel Economy Leaders" report as being among the top performers for fuel economy in their class.

[~~(b)~~] (c) For the purposes of this section:

"Agency" means a state agency, office, or department.

"Alternative fuel" [~~has the same meaning as contained in 10 Code of Federal Regulations Part 490.~~] means alcohol fuels, mixtures containing eighty-five per cent or more by volume of alcohols with gasoline or other fuels, natural gas, liquefied petroleum gas, hydrogen, biodiesel, mixtures containing twenty per cent or more by volume of biodiesel with diesel or other fuels, other fuels derived from biological materials, and electricity provided by off-board energy sources.

"Covered fleet" has the same meaning as contained in 10 Code of Federal Regulations Part 490 Subpart C.

[~~"Energy-efficient vehicle" means a vehicle that:~~

~~(1) Is capable of using an alternative fuel;~~

~~(2) Is powered primarily through the use of an electric battery or battery pack that stores energy produced by an electric motor through regenerative braking to assist in vehicle operation;~~

~~(3) Is propelled by power derived from one or more cells converting chemical energy directly into electricity by combining oxygen with hydrogen fuel that is stored on board the vehicle in any form;~~

~~(4) Draws propulsion energy from onboard sources of stored energy generated from an internal combustion or heat engine using combustible fuel and a rechargeable energy storage system; or~~

~~(5) Is on the list of "Most Energy Efficient Vehicles" in its class or is in the top one-fifth of the most energy-efficient vehicles in its class available in Hawaii as shown by vehicle fuel efficiency lists, rankings, or reports maintained by the United States Environmental Protection Agency.~~]

"Excluded vehicles" has the same meaning as provided in 10 Code of Federal Regulations Section 490.3.

"Light-duty motor vehicle" has the same meaning as contained in 10 Code of Federal Regulations Part 490[~~.~~], not including any vehicle incapable of traveling on highways or any vehicle with a gross vehicle weight rating greater than eight thousand five hundred pounds.

[~~(c) Agencies may offset energy efficient vehicle purchase requirements by successfully demonstrating percentage improvements in overall light-duty vehicle fleet mileage economy. The offsets shall be measured against the fleet average miles per gallon of petroleum-based gasoline and diesel fuel, using the fiscal year beginning July 1, 2006, as a baseline, on a percentage-by-percentage basis.~~

~~(d) Agencies that use biodiesel fuel may offset the vehicle purchase requirements of this section at the rate of one vehicle for each four hundred fifty gallons of neat biodiesel fuel used. Neat biodiesel fuel is one hundred per cent biodiesel (B100) by volume.~~

~~(e)~~] (d) Agencies may apply to the chief procurement officer for exemptions from the requirements of this section to the extent that the vehicles required by this section are not available or do not meet the specific needs of the agency[~~.~~]; provided that life cycle vehicle and fuel costs may be included in the determination of whether a particular vehicle meets the needs of the agency. Estimates of future fuel costs shall be based on projections from the United States Energy Information Administration.

[~~(f)~~] (e) Vehicles acquired from another state agency and excluded vehicles are exempt from the requirements of this section.

[~~(g)~~] (f) Nothing in this section is intended to interfere with [~~an agency's~~] the ability of a covered fleet to comply with [~~federally imposed~~] the vehicle purchase mandates [~~such as those~~] required by 10 Code of Federal Regulations Part 490 Subpart C."

SECTION 7. Section 286-172, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Subject to authorization granted by the chief justice with respect to the traffic records of the violations bureaus of the district courts and of the circuit courts, the director of transportation shall furnish information contained in the statewide traffic records system in response to:

(1) Any request from a state, a political subdivision of a state, or a federal department or agency, or any other authorized person pursuant to rules adopted by the director of transportation under chapter 91;

(2) Any request from a person having a legitimate reason, as determined by the director, as provided under the rules adopted by the director under paragraph (1), to

obtain the information for verification of vehicle ownership, traffic safety programs, or for research or statistical reports; [~~or~~]

(3) Any request from a person required or authorized by law to give written notice by mail to owners of vehicles[~~.~~]; or

(4) Any request from the energy resources coordinator to track the number and type of vehicles in use and the effectiveness of efforts to increase the efficiency and diversify the fuel needs of Hawaii's transportation sector."

PART IV

TRANSPORTATION ENERGY TRANSFORMATION GRANT FUND PROGRAM

SECTION 8. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§201- Transportation energy transformation grant fund; electric vehicles.** (a) There is established within the state treasury the transportation energy transformation grant fund, to be administered and expended by the department, into which shall be deposited:

(1) Appropriations made by the legislature;

(2) Gifts, grants, and other public and private funds;

(3) Any federal funds; and

(4) All interest and revenue of receipts derived from the fund.

(b) The moneys in the fund shall be used by the department to:

(1) Provide grants for the acquisition of electric vehicles;

(2) Provide grants for the installation of electric vehicle charging infrastructure that is in compliance with all state laws and capable of being intelligently integrated with the electrical grid;

(3) Provide grants for innovative programs that diversify transportation energy sources or that help coordinate activities that will help to diversify transportation energy sources in the state;

(4) Establish and fill two temporary positions to carry out the purposes of this part; and

(5) Pay for any administrative, operational, training, and marketing costs associated with the transportation energy transformation grant program.

(c) Applications for grants shall be made to the department and shall be for any or all of the following:

(1) The acquisition of one or more new electric vehicles licensed and intended for use on Hawaii's highways; provided that the electric vehicles are:

(A) Intended to be charged primarily by renewable energy sources; or

(B) Able to be integrated intelligently with the electrical grid;

(2) Electric vehicle charging infrastructure; and

(3) Innovative programs that diversify transportation energy sources or that help coordinate activities that will help to diversify transportation energy sources in the state.

(d) A grant may be made to an applicant only if the applicant has:

(1) Met the specifications and requirements established by the director for the grant program;

(2) Filed a completed application form, as presecribed by the director, together with all supporting documentation required by the director;

(3) Completed the purchase or lease, licensing, and registration of one or more vehicles, prior to applying for one or more electric vehicle grants;

(4) Provided any other information deemed necessary by the director; and

(5) Met any additional requirements of the grant program as determined by the director.

(e) Disbursements from the transportation energy transformation grant fund shall not be subject to chapter 42F.

(f) The director shall include information on the transportation energy transformation grant fund, and statistical information on program participation, in the department's annual report to the governor and the legislature.

(g) As used in this section:

"Director" means the director of business, economic development, and tourism.

"Electric vehicle" has the same meaning as contained in Section 30D of the Internal Revenue Code for "new qualified plug-in electric drive motor vehicle."

"Electric vehicle charging infrastructure" means structures, machinery, and equipment necessary to support an

electric vehicle, including battery charging stations and battery exchange stations.

"Integrated intelligently with the electrical grid" means that the demand of the electric vehicle for electricity from the grid is controlled to enable reduction of the vehicle's electrical demand on the grid during peak demand times and to enable maximum use of renewable energy sources, baseload energy sources, or renewable energy potentially available off peak that would otherwise be curtailed.

(h) The director may adopt rules pursuant to chapter 91 to govern all aspects of the transportation energy transformation grant fund program."

SECTION 9. There is appropriated out of available and appropriated federal funds the sum of $20,000,000 or so much thereof as may be necessary for fiscal year 2009-2010 and the same sum or so much thereof as may be necessary for fiscal year 2010-2011 to be deposited into the transportation energy transformation grant fund; provided that this section shall only take effect upon a determination by the department of business, economic development, and tourism that federal funds that may be appropriately expended for the purposes of this part are available.

SECTION 10. There is appropriated out of the transportation energy transformation grant fund the sum of $20,000,000 or so much thereof as may be necessary for fiscal year 2009-2010 and the same sum or so much thereof as may be necessary for fiscal year 2010-2011 for the purposes of this part; provided that this section shall only take effect upon a determination by the department of business, economic development, and tourism that federal funds that may be appropriately expended for the purposes of this part are available.

The sums appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this part.

SECTION 11. There are established within the department of business, economic development, and tourism two full-time, temporary positions, exempt from chapters 76 and 89, to carry out the purposes of this part.

PART V

BATTERY AND CHARGING OUTLET PLAN

SECTION 12. (a) No later than , the department of transportation, in consultation with the department of accounting and general services and the department

of business, economic development, and tourism, shall coordinate with county governments, energy industry experts, transportation specialists, and business, labor, and community leaders to develop and implement a plan to expedite state and county permitting and installation of battery exchange stations and electric vehicle charging outlets in homes, businesses, public parking lots, and other buildings and facilities throughout the state.

(b) The department of transportation shall submit a report on its findings and recommendations, including any proposed legislation, to the legislature not later than twenty days prior to the convening of the regular session of .

PART VI

MISCELLANEOUS

SECTION 13. In codifying the new sections added by section 4 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 14. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 15. This Act shall take effect on July 1, 2009; provided that section 8 shall be repealed on June 30, 2013.

S.B. NO. 1202
S.D. 2
H.D. 1

Report Title:
Transportation; Energy Efficient Vehicles

Description:
Establishes the development of non-fossil fuel transportation as a state policy goal. Requires the designation of parking spaces for electric vehicles and provides penalties for parking a non-electric vehicle in reserved spaces. Requires state and county agencies to follow a priority list when purchasing energy-efficient vehicles, including electric vehicles. Includes requirements for developing an electric vehicle infrastructure. Establishes the Transportation Energy Transformation Grant Fund Program. (SB1202 HD1))