

JAN 28 2009

A BILL FOR AN ACT

RELATING TO GOVERNMENT.

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

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PART I

SECTION 1. Hawaii is at a crossroads. As the most geographically isolated state in the country, we are dangerously dependent on external sources for basic food and energy needs. We import about eighty-five per cent of our food and ninety-five per cent of our energy. Each year, approximately fifty million barrels of crude oil valued at \$7,000,000,000 are imported from foreign countries. The mass consumption of fossil fuels contributes to global warming and the deterioration of the environment. Although Hawaii is home to renewable energy resources like solar, wind, ocean, and geothermal, we as a community have not taken advantage of alternative energy and energy efficiency solutions to make our State more energy independent. As an example, despite year-round sunshine, only thirty per cent of Hawaii's residents have solar water heaters.

Similarly, the reliance on imported food leaves our citizenry with a fresh supply of produce for no more than ten days. Currently, ninety per cent of the beef, sixty-seven per cent of fresh vegetables, and sixty-five per cent of fresh



1 fruits consumed in this State are imported. In 1984, Hawaii
2 produced one hundred per cent of the milk consumed in the State,
3 but today, local production only meets thirty per cent of our
4 needs. While it may be impracticable or unattainable for Hawaii
5 to produce one hundred per cent of its food, the risks and costs
6 to society cannot be ignored. The rising cost of shipping and
7 transportation associated with the price of oil create a highly
8 inefficient local economy. Comparatively, the production and
9 consumption of local food keeps money in our community, reduces
10 the demand for transportation energy, and decreases the
11 vulnerability to food supply disruptions caused by natural
12 disasters or worldwide economic events.

13 Now is the time for bold action to squarely address
14 Hawaii's energy and food requirements. It will require the
15 long-term commitment, dedication, and investment of government,
16 the private sector, and Hawaii's citizenry to dramatically shift
17 the course of direction towards a more energy independent and
18 agriculturally sustainable society. As a state and as a people,
19 we must decide whether we will continue to be dependent on
20 external sources for our basic needs, or whether we will build,
21 invest, and develop the capacity to become food and energy
22 independent. The legislature believes that it is in the best



1 interest of Hawaii's citizenry that we build the capacity to
2 become energy and food self-sufficient.

3 Hawaii has been at a crossroads before. Three decades ago,
4 Hawaii's government, business, and labor leaders chose to
5 bolster our economy by making Hawaii a world-class tourism
6 destination. The Hawaii State Plan and tourism functional plan
7 laid the policy and planning framework to move the State in that
8 direction. Hundreds of millions of dollars were invested in
9 roads, airports, harbors, and infrastructure to develop tourism
10 destinations throughout the State. Lands were urbanized.
11 Government agencies were created. Special funds and taxing
12 authorities were established to provide financial resources to
13 support marketing and promotional tourism activities that now
14 make Hawaii one of the premier visitor destinations in the
15 world, attracting over seven million visitors per year.

16 Today, as Hawaii is engulfed by the realities of a global
17 economy, we must take bold steps to control our destiny by
18 ensuring that our basic energy and food security needs are
19 locally produced and met.

20 SECTION 2. The legislature finds that if Hawaii is to
21 truly realize its vision and desire for an energy independent
22 and agriculturally sustainable society, government must lead the



1 way. A strategic and long-term commitment must be made to
2 invest in infrastructure, incent and guide private action, and
3 advance and accelerate energy and food security initiatives.

4 The purpose of this Act is to create the Hawaii energy and
5 food security authority to plan, coordinate, and address
6 Hawaii's energy and food security needs. The authority is
7 provided with the power and ability to address the inter-
8 relationships between energy and food production in developing
9 an overall plan and policy to achieve, to the degree possible
10 and practicable, food and energy independence and sustainability
11 for the State. In so doing, activities of of the authority
12 should also include economic development, workforce, and
13 consumer education issues relating to the production of food and
14 energy.

15 The legislature intends that the authority take an inter-
16 disciplinary approach to obtaining solutions, working
17 collaboratively with all levels of government and the private
18 and nonprofit sectors to address and balance water, land,
19 regulatory and natural resource issues intertwined with food and
20 fuel production. Such an inter-disciplinary approach ensures
21 that energy and food policy development is integrated within the
22 overall economic, social, environmental, and cultural aspects of



1 society. With an understanding of these overlapping goals and
2 resources, our State can maximize the opportunities to ensure
3 food and energy security for generations to come.

4 The legislature also intends that the authority emphasize
5 public-private partnerships, at both the state and county
6 levels. It is recommended that the authority be comprised of
7 twelve voting members from the general public, with expertise in
8 energy, agriculture, transportation, and economic development.
9 To ensure that economic development issues related to energy and
10 food security are addressed at the local level, the legislature
11 recommends that each of the economic development boards situated
12 in each of the counties be represented on the authority's board
13 as well.

14 The legislature finds that undertaking this important task
15 of energy and food security requires substantial financial
16 resources. An investment and long-term commitment by the State
17 must be made. This Act provides expanded taxing powers and the
18 establishment of a energy and food security fund which provides
19 fiscal resources to meet the authority's duties and obligations
20 provided by law.

21 PART II

1 SECTION 3. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 HAWAII ENERGY AND FOOD SECURITY AUTHORITY

6 § -1 Definitions The following terms, whenever used in
7 this chapter, shall have the following respective meanings,
8 unless a different meaning clearly appears in the context:

9 "Agency" means any agency, department, authority, board,
10 commission, the University of Hawaii, or any other unit of the
11 State or its political subdivisions.

12 "Authority" means the Hawaii energy and food security
13 authority established in section -2.

14 "Board" means the board of directors of the Hawaii energy
15 and food security authority established in section -3, and
16 any successor thereto.

17 "Public agency" means any office, department, board,
18 commission, bureau, division, public corporation agency, or
19 instrumentality of the federal, state, or county government.

20 § -2 Establishment of the Hawaii energy and food
21 security authority; purpose. (a) There is established the
22 Hawaii energy and food security authority, which shall be a body



1 corporate and a public instrumentality of the State, for the
2 purpose of implementing this chapter. The authority shall be
3 placed within the department of business, economic development,
4 and tourism for administrative purposes only, pursuant to
5 section 26-35.

6 (b) The purpose of the Hawaii energy and food security
7 authority shall be to promote and achieve energy independence
8 and food security in Hawaii. Its duties shall include but not
9 be limited to:

- 10 (1) Developing, implementing, and monitoring long-range
11 plans to achieve energy independence and food security
12 in Hawaii;
- 13 (2) Promoting and accelerating renewable energy, energy
14 efficiency, and energy self-sufficiency initiatives to
15 lead towards energy independence for Hawaii;
- 16 (3) Developing and promoting local agricultural markets,
17 to achieve food self-sufficiency and security for
18 Hawaii;
- 19 (4) Administering the Hawaii energy and food security
20 fund, established in section -9;
- 21 (5) Coordinating energy and food security activities and
22 programs, including competitive grant programs,



1 targeted tax credits, infrastructure development and
2 other incentive programs; and

3 (6) Engaging in workforce development, and marketing and
4 business development activities that promote energy
5 and food self-sufficiency, to facilitate public-
6 private partnerships with other public agencies, the
7 private sector and non-governmental organizations.

8 § -3 Board of directors; establishment, functions,

9 duties, (a) The governing body of the authority shall be a
10 board of directors which consists of twelve voting members, and
11 four ex officio nonvoting members; provided that:

12 (1) Twelve voting members shall be appointed by the
13 governor as provided in section 26-34, except as
14 otherwise provided by law;

15 (2) The twelve voting members shall be composed of at
16 least one representative from each of the economic
17 development boards of Honolulu, Hawaii, Kauai, and
18 Maui; the remaining voting members shall be appointed
19 at-large;

20 (3) Of the twelve voting members, three shall be appointed
21 by the governor from a list of three names submitted
22 for each appointment by the president of the senate,



1 and three shall be appointed by the governor from a
2 list of three names submitted for each appointment by
3 the speaker of the house of representatives; provided
4 that if fewer than three names are submitted for each
5 appointment, the governor may disregard the list;

6 (4) At least six of the twelve voting members shall have
7 knowledge, experience, and expertise in the area of
8 energy, agriculture, transportation, or economic
9 development; provided that no more than three members
10 shall represent, be employed by, or be under contract
11 to any sector of the industry represented on the
12 board;

13 (5) The governor shall make appointments to ensure the
14 fulfillment of all requirements; provided that any
15 appointments made after July 1, 2009, shall be made to
16 fulfill the requirements in place when the
17 appointments are made;

18 (6) The director of business, economic development, and
19 tourism, or a designated representative, shall be an
20 ex officio nonvoting member;



1 (7) The director of transportation, or a designated
2 representative, shall be an ex officio nonvoting
3 member;

4 (8) The chairperson of the board of agriculture, or a
5 designated representative, shall be an ex officio
6 nonvoting member; and

7 (9) The chairperson of the board of land and natural
8 resources, or a designated representative, shall be an
9 ex officio nonvoting member.

10 (c) The voting members shall be appointed by the governor
11 for terms of four years. Each voting member shall hold office
12 until the member's successor is appointed and qualified.

13 Section 26-34 shall be applicable insofar as it relates to the
14 number of terms and consecutive number of years a member may
15 serve on the board.

16 (d) The board shall elect a chairperson from among the
17 voting members. Ex officio members or their designated
18 representatives shall not serve as chairperson of the board.

19 (e) Seven voting members shall constitute a quorum and a
20 minimum of seven affirmative votes shall be necessary for all
21 actions by the authority. The members shall serve without
22 compensation, but shall be reimbursed for expenses, including



1 traveling expenses, necessary for the performance of their
2 duties.

3 (f) The board shall appoint an executive director, exempt
4 from chapters 76 and 89, who shall oversee the authority staff.

5 § -4 Meetings of the board. (a) The meetings of the
6 board shall be open to the public as provided in section 92-3,
7 except that when it is necessary for the board to receive
8 information that is proprietary to a particular enterprise or
9 the disclosure of which might be harmful to the business
10 interests of the enterprise, the board may enter into an
11 executive meeting that is closed to the public. This
12 authorization shall be in addition to the exceptions listed in
13 section 92-5, to enable the board to respect the proprietary
14 requirements of enterprises with which it has business dealings.

15 (b) The board shall be subject to the procedural
16 requirements of section 92-4.

17 § -5 Powers and duties. (a) Except as otherwise
18 limited by this chapter, the authority may:

19 (1) Sue and be sued;

20 (2) Have a seal and alter the same at pleasure;



- 1 (3) Make and execute contracts and all other instruments
2 necessary or convenient for the exercise of its powers
3 and functions under this chapter;
- 4 (4) Make and alter bylaws for its organization and
5 internal management;
- 6 (5) Unless otherwise provided in this chapter, adopt rules
7 in accordance with chapter 91 with respect to its
8 projects, operations, properties, and facilities;
- 9 (6) Through its executive director, represent the
10 authority in communications with the governor and the
11 legislature;
- 12 (7) Through its executive director, provide for the
13 appointment of officers, agents, and employees,
14 subject to the approval of the board, prescribing
15 their duties and qualifications, and fixing their
16 salaries, without regard to chapters 76 and 78;
- 17 (8) Engage the services of qualified persons to implement
18 the State's energy and food security plan or portions
19 thereof as determined by the authority; and
- 20 (9) Engage the services of consultants on a contractual
21 basis for rendering professional and technical
22 assistance and advice.



- 1 (b) The authority shall:
- 2 (1) Formulate plans, including objectives, criteria to
- 3 measure accomplishment of objectives, programs through
- 4 which the objectives are to be attained, and financial
- 5 requirements for the optimum development of Hawaii's
- 6 energy resources;
- 7 (2) Conduct systematic analysis of existing and proposed
- 8 energy resource programs, evaluate the analysis
- 9 conducted by government agencies and other
- 10 organizations, and recommend to the governor and to
- 11 the legislature programs which represent the most
- 12 effective allocation of resources for the development
- 13 of energy sources;
- 14 (3) Formulate and recommend specific proposals, as
- 15 necessary, for conserving energy and fuel, including
- 16 the allocation and distribution thereof, to the
- 17 governor and to the legislature;
- 18 (4) Assist public and private agencies in implementing
- 19 energy conservation and related measures;
- 20 (5) Coordinate the State's energy conservation and
- 21 allocation programs with that of the federal
- 22 government, other state governments, governments of



- 1 nations with interest in common energy resources, and
2 the political subdivisions of the State;
- 3 (6) Develop programs to encourage private and public
4 exploration and research of alternative energy
5 resources that will benefit the State;
- 6 (7) Conduct public education programs to inform the public
7 of the energy situation as may exist from time to time
8 and of the government actions taken to address the
9 energy situation;
- 10 (8) Serve as consultant to the governor, public agencies,
11 and private industry on matters related to the
12 acquisition, utilization, and conservation of energy
13 resources;
- 14 (9) Review proposed state actions that the authority finds
15 to have significant effect on energy consumption and
16 report to the governor and legislature their effect on
17 the energy conservation program, and perform other
18 services as may be required by the governor and the
19 legislature;
- 20 (10) Engage in public-private partnerships with the private
21 sector and non-governmental organizations to
22 facilitate workforce and economic development,



1 marketing, and educational activities relating to
2 energy and food security;

3 (11) Establish competitive grant programs to promote energy
4 independence and food security, as appropriate;

5 (12) Support and fund energy and food security
6 infrastructure programs, as appropriate; and

7 (13) Develop targeted tax credit and business incentives
8 programs, as appropriate.

9 (c) The authority shall do any and all things necessary to
10 carry out its purposes, to exercise the powers and
11 responsibilities given in this chapter, and to perform other
12 functions required or authorized by law.

13 § -6 State program for energy planning, conservation,
14 and security. The authority shall develop a state program for
15 energy planning, conservation, and security. The program shall
16 consist of short- and long-range planning for the development
17 and promulgation of methods to encourage voluntary conservation
18 of gasoline, diesel oil, natural gas, propane, heating oils,
19 other fuels, and electrical energy, and efficient development of
20 new or alternative sources of fuels and energy. The information
21 resulting from development of the methods shall be disseminated
22 to the people of Hawaii through all forms of mass communication



1 media, public and private schools, private and civic
2 organizations, and all other appropriate means. Public
3 information offices of other state and county agencies may be
4 called upon for assistance in the development of the program.

5 § -7 **State program for food security.** The authority
6 shall develop a state program for food security. The program
7 shall consist of short- and long-range planning for the
8 development and promulgation of methods to encourage local
9 production, marketing, and consumption of food products
10 resulting in food self-sufficiency and security. The authority
11 shall coordinate its activities with the department of
12 agriculture.

13 § -8 **Inter-relationship between energy and food security**
14 **issues.** Notwithstanding any law to the contrary, the authority,
15 in its planning and implementation activities, shall address the
16 inter-relationships between energy and food security, including
17 but not limited to issues relating to land, water, crop
18 production, workforce, and infrastructure development.

19 § -9 **Energy and food security fund.** (a) There is
20 established the energy and food security fund, into which shall
21 be deposited:



- 1 (1) A portion of the revenues from the environmental
2 response and energy and food security tax, as provided
3 by section 243-3.5;
- 4 (2) Appropriations by the legislature to the energy and
5 food security fund;
- 6 (3) Gifts, grants, and other funds accepted by the
7 authority; and
- 8 (4) All interest and revenues or receipts derived by the
9 authority from any project or project agreements.
- 10 (b) Moneys in the energy and food security fund may be:
- 11 (1) Placed in interest-bearing accounts; provided that the
12 depository in which the money is deposited furnishes
13 security as provided in section 38-3; or
- 14 (2) Otherwise invested by the authority until such time as
15 the moneys may be needed; provided that the authority
16 shall limit its investments to those listed in section
17 36-21. All interest accruing from the investment of
18 these moneys shall be credited to the energy and food
19 security fund.
- 20 (c) Moneys in the energy and food security fund shall be
21 used by the authority for the purposes of this chapter; provided



1 that funds shall be used to address energy and food security
2 issues.

3 § -10 Annual report; benchmarks and indicators; tax
4 credits. (a) The authority shall submit a complete and
5 detailed report of its activities, expenditures, and results to
6 the governor and the legislature at least twenty days prior to
7 the convening of each regular session of the legislature. The
8 annual report shall include benchmarks and indicators to measure
9 the authority's progress in meeting the energy and food security
10 plan goals and objectives.

11 (b) If the authority develops targeted tax credit and
12 incentive programs to promote energy and food security
13 activities, an annual review of the efficacy and results of
14 those programs shall be conducted and reported to the governor
15 and the legislature.

16 § -11 Audit. The authority shall be subject to a
17 financial audit once every five years by the auditor."

18 PART III

19 SECTION 4. Section 201-12, Hawaii Revised Statutes, is
20 repealed.

21 ~~["§201-12] State program for energy planning and~~
22 ~~conservation. The department shall develop a state program for~~



1 ~~energy planning and conservation. The program shall consist of~~
 2 ~~short and long range planning for the development and~~
 3 ~~promulgation of methods to encourage voluntary conservation of~~
 4 ~~gasoline, diesel oil, natural gas, propane, heating oils, other~~
 5 ~~fuels, and electrical energy, and efficient development of new~~
 6 ~~or alternative sources of such fuels and energy. The~~
 7 ~~information resulting from such methods is to be disseminated to~~
 8 ~~the people of Hawaii through all forms of mass communication~~
 9 ~~media, public and private schools, private and civic~~
 10 ~~organizations, and all other appropriate means. Public~~
 11 ~~information offices of other state and county agencies may be~~
 12 ~~called upon for assistance in the development of such program."]~~

13 SECTION 5. Section 243-3.5, Hawaii Revised Statutes, is
 14 amended as follows:

15 1. By amending its title and subsection (a) to read:

16 "§243-3.5 Environmental response and energy and food
 17 security tax; uses. (a) In addition to any other taxes
 18 provided by law, subject to the exemptions set forth in section
 19 243-7, there is hereby imposed [~~at times provided in section~~
 20 ~~128D-2~~] a state environmental response and energy and food
 21 security tax of [~~5 cents~~] \$1 on each barrel or fractional part
 22 of a barrel of petroleum product sold by a distributor to any



1 retail dealer or end user, other than a refiner, of petroleum
2 product; provided that:

3 (1) 5 cents of the tax on each barrel shall be used
4 pursuant to section 128D-2 to address concerns
5 relating to drinking water[-];

6 (2) 47.5 cents of the tax on each barrel shall be used
7 pursuant to section -9 to address energy and food
8 security issues; and

9 (3) 47.5 cents of the tax on each barrel shall be used
10 pursuant to section 163D-17 to address food security
11 issues.

12 The tax imposed by this subsection shall be paid by the
13 distributor of the petroleum product."

14 2. By amending subsection (c) to read:

15 (c) Notwithstanding section 248-8 to the contrary, the
16 environmental response and energy and food security tax
17 collected under this section shall be paid over to the director
18 of finance for deposit into the environmental response revolving
19 fund established by section 128D-2[-] and the energy and food
20 security fund established by section -9."

21 SECTION 6. Section 196-3, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~§196-3~~ Energy resources coordinator. The executive
2 director of [~~business, economic development, and tourism~~] the
3 Hawaii energy and food security authority shall serve as energy
4 resources coordinator."

5 SECTION 7. Section 196-4, Hawaii Revised Statutes, is
6 repealed.

7 [~~"§196-4 Powers and duties. Subject to the approval of~~
8 ~~the governor, the coordinator shall:~~

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

14 (2) ~~Conduct systematic analysis of existing and proposed~~
15 ~~energy resource programs, evaluate the analysis~~
16 ~~conducted by government agencies and other~~
17 ~~organizations and recommend to the governor and to the~~
18 ~~legislature programs which represent the most~~
19 ~~effective allocation of resources for the development~~
20 ~~of energy sources;~~

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



- 1 ~~the allocation and distribution thereof, to the~~
- 2 ~~governor and to the legislature;~~
- 3 ~~(4) Assist public and private agencies in implementing~~
- 4 ~~energy conservation and related measures;~~
- 5 ~~(5) Coordinate the State's energy conservation and~~
- 6 ~~allocation programs with that of the federal~~
- 7 ~~government, other state governments, governments of~~
- 8 ~~nations with interest in common energy resources, and~~
- 9 ~~the political subdivisions of the State;~~
- 10 ~~(6) Develop programs to encourage private and public~~
- 11 ~~exploration and research of alternative energy~~
- 12 ~~resources which will benefit the State;~~
- 13 ~~(7) Conduct public education programs to inform the public~~
- 14 ~~of the energy situation as may exist from time to time~~
- 15 ~~and of the government actions taken thereto;~~
- 16 ~~(8) Serve as consultant to the governor, public agencies~~
- 17 ~~and private industry on matters related to the~~
- 18 ~~acquisition, utilization and conservation of energy~~
- 19 ~~resources;~~
- 20 ~~(9) Contract for services when required for implementation~~
- 21 ~~of this chapter;~~



- 1 ~~(10) Review proposed state actions which the coordinator~~
2 ~~finds to have significant effect on energy consumption~~
3 ~~and report to the governor their effect on the energy~~
4 ~~conservation program, and perform such other services~~
5 ~~as may be required by the governor and the~~
6 ~~legislature;~~
- 7 ~~(11) Prepare and submit an annual report and such other~~
8 ~~reports as may be requested to the governor and to the~~
9 ~~legislature on the implementation of this chapter and~~
10 ~~all matters related to energy resources; and~~
- 11 ~~(12) Adopt rules for the administration of this chapter~~
12 ~~pursuant to chapter 91, provided that the rules shall~~
13 ~~be submitted to the legislature for review."]~~

14 SECTION 8. Section 163D-4, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) The corporation shall develop, promote, assist, and
17 market export crops and other crops for local markets[-],
18 including developing programs and policies to address food
19 security issues in Hawaii."

20 SECTION 9. Section 163D-17, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 department of agriculture, if any, required or authorized by
2 this Act are duplicative or redundant of the powers and duties
3 of the authority. The authority shall provide a report to the
4 legislature on its findings no later than twenty days prior to
5 the convening of the regular session of 2010.

6 SECTION 11. The authority shall coordinate with the
7 agribusiness development corporation to determine what functions
8 of the corporation, if any, required or authorized by this Act
9 are duplicative or redundant of the powers and duties of the
10 authority. The agency review shall include a plan to transfer
11 all powers and authorities of the agribusiness development
12 corporation to the authority no later than July 1, 2011. The
13 authority shall provide a report to the legislature on its
14 findings no later than twenty days prior to the convening of the
15 regular session of 2010.

16 SECTION 12. Chapter 163D, Hawaii Revised Statutes, is
17 repealed.

18 SECTION 13. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 14. This Act shall take effect upon its approval;
2 provided that section 12 shall take effect on July 1, 2011.

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INTRODUCED BY:

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Report Title:

Food and Energy Security

Description:

Establishes the Hawaii energy and food security authority to plan, coordinate, and address Hawaii's energy and food security needs. Repeals the state program for energy planning and conservation. Imposes the environmental response and energy and food security tax. Makes the executive director of the authority the energy resources coordinator. Repeals the energy resources coordinator duties. Abolishes the agribusiness development corporation on 7/1/2011.

