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# A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

1           SECTION 1. The legislature finds that there is a need to  
2   coordinate the development of the State's energy resources to  
3   preserve energy security by increasing the use of indigenous  
4   renewable energy, and reducing the State's overdependence on  
5   oil. The legislature also finds that energy data and analysis  
6   are essential to energy planning, policy development, and energy  
7   emergency preparedness and response. In recent years, energy  
8   markets, resources, systems and technologies, the variety and  
9   types of fuels, environmental standards and specifications of  
10   fuels, and policies related to energy and fuels have undergone  
11   dramatic changes. Current and future transitional trends are  
12   expected to continue to influence Hawaii's energy situation.  
13   These events reveal a critical need to develop the State's  
14   technical and analytic capabilities and understanding of  
15   Hawaii's energy resources, markets, and systems for effective  
16   energy planning to achieve energy independence and increase the  
17   State's energy security.

1           The legislature finds that the director of business,  
2 economic development, and tourism, who serves as the state  
3 energy resources coordinator pursuant to section 196-3, Hawaii  
4 Revised Statutes, is responsible for coordinating the  
5 development of the State's energy resources, policies, programs,  
6 and plans.

7           The legislature finds that the energy data and analytic  
8 functions of the state energy resources coordinator are  
9 statutorily distinctive and different from, and not redundant to  
10 other agencies' functions; e.g., the functions of the public  
11 utilities commission, which focus primarily on monitoring  
12 petroleum prices and industry profits, a state "watchdog" role.

13           The legislature, in Act 182, Session Laws of Hawaii 2007,  
14 explicitly acknowledged the difference between the department of  
15 business, economic development, and tourism's energy analysis  
16 role and the public utilities commission's role to conduct  
17 analysis with a focus on petroleum prices and petroleum industry  
18 profits. The statute directed the department of business,  
19 economic development, and tourism to use this data "to  
20 effectuate the purposes of chapters 125C, 196, and other  
21 relevant laws." The legislature recognized that the use and  
22 analysis of energy and fuels data remain critical to virtually

1 all of the department of business, economic development, and  
2 tourism's statutory energy program functional requirements.

3 The legislature, therefore, finds that it is essential and  
4 appropriate to include within chapter 196, Hawaii Revised  
5 Statutes, that the department of business, economic development,  
6 and tourism shall be responsible for developing and ensuring the  
7 achievement of the State's energy policies, programs, and plans.

8 Therefore, the legislature finds that it is necessary to  
9 amend chapter 196, Hawaii Revised Statutes, to:

- 10 (1) Update certain definitions for clarity and to take  
11 into account the changes in the State's energy  
12 resources, markets, and systems;
- 13 (2) Establish definitive policy guidance needed on the  
14 nature and relationship of energy data analyses to the  
15 State's energy program, and to clearly delineate  
16 distinctive analytic roles and responsibilities of  
17 state agencies conducting energy data functions; and
- 18 (3) Provide the statutory basis for a systematic state  
19 energy analytic capacity and capability, which is  
20 essential to support the energy resources  
21 coordinator's role.

1 SECTION 2. Section 196-1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§196-1 Findings and declaration of necessity.** The  
4 legislature finds that:

5 (1) The global demand for petroleum and its derivatives  
6 has resulted in a significant and fundamental market  
7 escalation in oil prices and has caused severe  
8 economic hardships throughout the State, and threatens  
9 to impair the public health, safety, and welfare.

10 The State of Hawaii, with its near total  
11 dependence on imported fossil fuel, is particularly  
12 vulnerable to dislocations in the global energy  
13 market. This [~~is an anomalous~~] situation[~~7~~] can be  
14 changed, as there are few places in the world so  
15 generously endowed with natural energy: geothermal,  
16 solar radiation, ocean temperature differential, wind,  
17 biomass, waves, and currents--all potential non-  
18 polluting power sources;

19 (2) There is a real need for comprehensive strategic  
20 [~~comprehensive~~] planning in the effort towards  
21 achieving full [~~utilization~~] use of Hawaii's energy  
22 [~~resource programs~~] resources and the most effective

1 allocation of energy resources throughout the State.  
2 Planning is necessary and desirable in order that the  
3 State may recognize and declare the major problems and  
4 opportunities in the field of energy resources. Both  
5 short-range and long-range planning will permit the  
6 articulation of:

7 (A) Broad policies, goals, and objectives;

8 (B) Criteria for measuring and evaluating  
9 accomplishments of objectives;

10 (C) Identification and implementation of programs  
11 that will carry out such objectives; and

12 (D) A determination of requirements necessary for the  
13 optimum development of Hawaii's energy resources.

14 Such planning efforts will identify present conditions  
15 and major problems relating to energy resources, their  
16 exploration, development, production, and  
17 distribution. It will show the projected nature of  
18 the situation and rate of change [~~and~~], present  
19 conditions for the foreseeable future based on a  
20 projection of current trends in the development of  
21 energy resources in Hawaii[+], and include initiatives  
22 designed to fundamentally change how Hawaii consumes

1 energy, by accelerating the production of renewable  
2 and alternative energy, increasing energy efficiency,  
3 developing and adopting new technologies, and ensuring  
4 the State's energy security;

5 (3) The State requires an in-depth understanding of the  
6 causes and effects of any transitional issues and  
7 trends related to changes in the State's energy  
8 resources, systems, and markets;

9 ~~(+3)~~ (4) There are many agencies of the federal, state,  
10 and county governments in Hawaii, as well as many  
11 private agencies~~[7]~~ and a broad set of non-  
12 governmental entities, engaged in, or expressing an  
13 interest in, various aspects of the exploration,  
14 research, distribution, transportation, storage,  
15 conservation, and production of all forms of energy  
16 resources in Hawaii. Some of these agencies include  
17 the University of Hawaii~~[7]~~; the department of land  
18 and natural resources~~[7]~~; the department of business,  
19 economic development, and tourism~~[7]~~; the division of  
20 consumer advocacy~~[7]~~; the public utilities commission;  
21 the state civil defense agency; the federal energy  
22 office~~[7]~~; and various county agencies, as well as

1           ~~[the oil companies, gas stations, and other private~~  
2           ~~enterprises;]~~ Hawaii's energy and energy-related  
3           companies; and  
4        [(-4)] (5) There is ~~[immediate]~~ an ongoing need in this  
5           State to coordinate the efforts of ~~[all these~~  
6           ~~agencies;]~~ statewide industry and government energy  
7           sectors, maintain the technical capability and  
8           adequate capacity to quantitatively and qualitatively  
9           evaluate, analyze, develop, and coordinate  
10          implementation of private and public sector energy  
11          planning efforts, recommend market-based policies to  
12          develop Hawaii's energy resources, systems, and  
13          markets, establish and coordinate programs to preserve  
14          and protect the State's energy security, maintain a  
15          robust energy emergency preparedness program, and  
16          effectuate the conservation of ~~[fuel;]~~ energy  
17          resources, to provide for the equitable distribution  
18          thereof, and to formulate plans for the development  
19          and use of alternative energy sources. There is a  
20          need for such coordination, capability, and capacity  
21          so that there will be maximum conservation and  
22          ~~[utilization]~~ use of energy resources in the State."

1 SECTION 3. Section 196-2, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By adding twelve new definitions to be appropriately  
4 inserted and to read:

5 "Agent" means a person who is designated by the  
6 coordinator as an authorized representative.

7 "Commission" means the public utilities commission.

8 "Department" means the department of business, economic  
9 development, and tourism.

10 "Distributor" means:

11 (1) Every person who refines, manufactures, produces, or  
12 compounds fuel in the State and sells it at wholesale  
13 or retail, or who uses it directly in the manufacture  
14 of products or for the generation of power;

15 (2) Every person who imports or causes to be imported into  
16 the State, or exports or causes to be exported from  
17 the State, any fuel;

18 (3) Every person who acquires fuel through exchanges with  
19 another distributor; and

20 (4) Every person who purchases fuel for resale at  
21 wholesale or retail from any person described in  
22 paragraph (1), (2), or (3).



1       "Electricity" means all electrical energy produced by  
2 combustion of any fuel as defined in this section, or generated  
3 or produced using wind, the sun, geothermal, ocean water,  
4 falling water, currents, and waves, or any other source.

5       "Energy" means work or heat that is, or may be, produced  
6 from any fuel or source whatsoever.

7       "Fuel" means fuels, whether liquid, solid, or gaseous,  
8 commercially usable for energy needs, power generation, and  
9 fuels manufacture, that may be manufactured, grown, produced, or  
10 imported into the State or that may be exported therefrom,  
11 including petroleum and petroleum products and gases to include  
12 all fossil fuel-based gases, coal tar, vegetable ferments,  
13 biomass, municipal solid waste, biofuels, hydrogen, agricultural  
14 products used as fuels and as feedstock to produce fuels, and  
15 all fuel alcohols.

16       "Major energy marketer" means any person who sells energy  
17 resources in amounts determined by the coordinator as having a  
18 major effect on the supplies of, or demand for, energy  
19 resources.

20       "Major energy producer" means any person who produces  
21 energy resources in amounts determined by the coordinator as

1 having a major effect on the supplies of, or demand for, energy  
2 resources.

3 "Major energy transporter" means any person who transports  
4 energy resources in amounts determined by the coordinator as  
5 having a major effect on the supplies of, or demand for, energy  
6 resources.

7 "Major energy user" means any person who uses energy  
8 resources in the manufacture of products or for the generation  
9 of electricity in amounts determined by the coordinator as  
10 having a major effect on the supplies of, or demand for, energy  
11 resources.

12 "Major fuel storer" means any person who stores fuels in  
13 amounts determined by the coordinator as having a major effect  
14 on the supplies of, or demand for, energy resources."

15 2. By amending the definition of "energy resources" to  
16 read:

17 "Energy resources" means [~~and includes fossil fuel,~~  
18 ~~nuclear, geothermal, solar, hydropower, wind, and other means of~~  
19 ~~generating energy.] fuels, whether liquid, solid, or gaseous,~~  
20 commercially usable for energy needs, power generation, and  
21 fuels manufacture, that may be manufactured, grown, produced, or  
22 imported into the State or that may be exported therefrom,

1 including petroleum and petroleum products and gases, and all  
2 fossil fuel-based gases, coal tar, vegetable ferments, biomass,  
3 municipal solid waste, biofuels, hydrogen, agricultural products  
4 used as fuels and as feedstock to produce fuels, and all fuel  
5 alcohols. Energy resources also includes all electrical energy  
6 produced by combustion of any fuel, or generated or produced  
7 using wind, the sun, geothermal, ocean water, falling water,  
8 currents, and waves, or any other source."

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

11 "**§196-4 Powers and duties.** Subject to the approval of the  
12 governor, the coordinator shall:

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

18 (2) Conduct systematic analysis of existing and proposed  
19 energy resource programs, evaluate the analysis  
20 conducted by government agencies and other  
21 organizations and recommend to the governor and to the  
22 legislature programs [~~which~~] that represent the most

- 1 effective allocation of resources for the development  
2 of energy [~~sources~~] resources;
- 3 (3) Formulate and recommend specific proposals, as  
4 necessary, for conserving energy [~~and fuel~~],  
5 resources, including the allocation and distribution  
6 thereof, to the governor and to the legislature;
- 7 (4) Assist public and private agencies in implementing  
8 energy conservation and related measures;
- 9 (5) Coordinate the State's energy conservation and  
10 allocation programs with that of the federal  
11 government, other state governments, governments of  
12 nations with interest in common energy resources, and  
13 the political subdivisions of the State;
- 14 (6) Develop programs to encourage private and public  
15 exploration and research of alternative energy  
16 resources [~~which~~] that will benefit the State;
- 17 (7) Conduct public education programs to inform the public  
18 of the energy resources situation as may exist from  
19 time to time and of the government actions taken  
20 [~~thereto~~];
- 21 (8) Serve as consultant to the governor, public agencies,  
22 and private industry on matters related to the

- 1 acquisition, [~~utilization~~] use, and conservation of  
2 energy resources;
- 3 (9) Contract for services when required for the  
4 implementation of this chapter;
- 5 (10) Review proposed state actions [~~which~~] that the  
6 coordinator finds to have significant effect on energy  
7 [~~consumption~~] resources and report to the governor  
8 their effect on the energy conservation program, and  
9 perform such other services as may be required by the  
10 governor and the legislature;
- 11 (11) Prepare and submit an annual report and [~~such~~] other  
12 reports as may be requested to the governor and to the  
13 legislature on the implementation of this chapter and  
14 all matters related to energy resources; [~~and~~]
- 15 (12) Adopt rules for the administration of this chapter  
16 pursuant to chapter 91[~~7~~]; provided that the rules  
17 shall be submitted to the legislature for review[~~-~~];  
18 and
- 19 (13) Develop and maintain a comprehensive and systematic  
20 quantitative and qualitative capacity to analyze the  
21 status of energy resources, systems, and markets, both  
22 in-state and those to which Hawaii is directly tied,

1           particularly in relation to the State's economy, and  
2           to recommend, develop proposals for, and assess the  
3           effectiveness of policy and regulatory decisions, and  
4           conduct energy emergency planning."

5           SECTION 5. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7           SECTION 6. This Act shall take effect upon its approval.

**Report Title:**

Energy Resources; Power Generation Utilities, Transportation  
Fuels; State Energy Resources Coordinator

**Description:**

To comprehensively address deficiencies in Hawaii's energy  
resources coordination statutes. Provide policy guidance needed  
to provide adequate detail on the nature and relationship of the  
energy data analyses functions required of the state energy  
resources coordinator and energy program. (SD1)