

JAN 28 2009

A BILL FOR AN ACT

RELATING TO SOLID WASTE.

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

1 SECTION 1. The legislature finds that Hawaii produces
2 almost twice as much solid waste per person per day compared to
3 the rest of the United States. Between 1990 and 2006, while
4 municipal solid waste generation grew twenty-two per cent across
5 the United States, it grew an astounding one hundred five per
6 cent in Hawaii. Chapter 342G, Hawaii Revised Statutes,
7 Integrated Solid Waste Management, was enacted in 1991 and
8 established the State's Office of Solid Waste Management, which
9 provides for the development of a coordinated statewide solid-
10 waste management plan. The plan, last revised in July 2000,
11 established specific goals for the State to reduce, through
12 source reduction, recycling, and bioconversion, the solid waste
13 stream prior to disposal by twenty-five per cent by January 1,
14 1995, and fifty per cent by January 1, 2000. After some initial
15 progress in the 1990s, Hawaii has not come close to meeting
16 these goals since. Despite being revisited by the legislature in
17 2004 with a recommendation to reaffirm these goals, this



1 recommendation was ignored, and nothing has been done since
2 then.

3 The legislature also finds that chapter 342G requires each
4 county to submit a revised solid waste management plan every
5 five years. Section 342G-29, Hawaii Revised Statutes, provides
6 that the office of solid waste management should reconvene a task
7 force to review and revise the State's integrated solid waste
8 management plan, when all four county revised plans have been
9 approved by the office. It has been nearly a decade since the
10 last task force was convened and the State's integrated solid
11 waste management plan was last revised. An informal joint
12 legislative task force (hereafter informal task force), convened
13 in 2003, discussed numerous problems with the State's solid
14 waste management system and focused its efforts on assessing the
15 critical and pressing issues of diminished landfill capacity,
16 illegal dumping, and underutilized recycling. The informal task
17 force, however, failed to rally the necessary political support
18 to convene a formal task force, revise the 2000 integrated solid
19 waste management plan, or substantively change the status quo in
20 any way.

21 The legislature also finds that the problems posed by the
22 growing waste stream, and the State's apparent inability to



1 address them, have left Hawaii with severely limited and
2 unsustainable waste disposal options. Landfills across the
3 State are either at or near capacity, yet government continues to
4 allocate funds to resolve short term or administrative problems
5 such as shipping the trash out-of-State at a significant cost,
6 rather than allocating funds to generate long term solutions.
7 The informal task force acknowledged that the statewide solid
8 waste disposal system was out-dated and in need of
9 modernization.

10 In a January 2004 report to the legislature evaluating the
11 administration of the office of solid waste management by the
12 department of health, the auditor reported that "the Department
13 of Health is not carrying out its solid waste management
14 responsibilities for public health and environmental protection.
15 Ultimately, the Department has failed in its duties to the
16 public and the environment." Referencing a 1994 audit, as well
17 as a 1996 follow-up audit, the auditor stated that "prior audits
18 show management problems that continue to exist," including "no
19 orderly or efficient management of solid waste programs," and
20 that "very little has changed." The auditor found that "the
21 State is facing a solid waste crisis ... [which] has reached
22 a critical point and [the State] is now faced with making last-



1 minute decisions to address pressing solid waste issues" and
2 concluded that "the Department of Health's lack of oversight has
3 resulted in out-dated solid waste management plans that cannot
4 guide effective development and implementation of its solid
5 waste programs."

6 The legislature finds that office of solid waste management
7 has been assigned too many functions and duties by section 342G-
8 14, Hawaii Revised Statutes, making it practically impossible
9 for it to effectively accomplish all that the legislature and
10 the governor expect. Many of these functions and duties could
11 be effectively reassigned, shifting the responsibilities
12 associated with long-range planning and effective implementation
13 of the integrated solid waste management plan to a separate
14 entity, while retaining the office's administrative operations
15 function. This revision of the State's solid waste management
16 system will permit the State to develop innovative and unique
17 approaches to the consistent challenges and persistent problems
18 plaguing the management of Hawaii's growing waste stream.

19 The purpose of this Act is to establish and fund an
20 efficient, effective, up-to-date, and comprehensive solid waste
21 management program. Reorganizing, rejuvenating, and investing in
22 Hawaii's solid waste management infrastructure will not only



1 stimulate the economy but also promote a more sustainable future
2 for Hawaii.

3 SECTION 2. Chapter 342G, Hawaii Revised Statutes, is
4 amended by adding two new sections to be appropriately
5 designated and to read as follows:

6 "§342G-A Commission on waste resource management. (a)

7 There is established within the department a commission on waste
8 resource management consisting of seven members, which shall have
9 exclusive jurisdiction and final authority in all matters relating
10 to implementation and administration of the state integrated solid
11 waste management plan, except as otherwise specifically provided in
12 this chapter.

13 (b) Five members shall be appointed by the governor
14 subject to section 26-24, in a manner prescribed in subsection
15 (d). Each member shall have substantial experience in the area
16 of waste resource management.

17 (c) The members of the commission shall serve without
18 compensation but shall be reimbursed for expenses, including
19 travel expenses, necessary for the performance of their duties.

20 (d) In appointing a member to the commission, the governor
21 shall select from a list submitted by a nominating committee.

22 The nominating committee shall be composed of four individuals



1 chosen as follows: two persons appointed by the governor; one
2 person appointed by the president of the senate; and one person
3 appointed by the speaker of the house of representatives. The
4 committee shall solicit applications and send to the governor
5 the names of at least three individuals for each open position.

6 §342G-B Waste resource management fund. (a) There is
7 established in the department a special fund to be designated as
8 the waste resource management fund. The fund shall be
9 administered by the commission. The waste resource management
10 fund shall be used for the following:

- 11 (1) Monitoring programs and activities concerning waste
12 resource collection, diversion, and management;
- 13 (2) Research programs and activities concerning waste
14 resource diversion and investigation of alternative
15 waste resource technologies;
- 16 (3) Preparation and dissemination of information to the
17 public concerning activities authorized under this
18 chapter;
- 19 (4) Data collection, development, and updating of long-
20 range planning documents authorized or required under
21 this chapter; and



1 (5) Any other protection, management, operational, or
2 maintenance functions authorized and deemed necessary
3 by the commission, including but not limited to
4 funding permanent or temporary staff positions.

5 (b) The following shall be deposited into the waste
6 resource management fund:

7 (1) Appropriations by the legislature to the waste
8 resource management fund;

9 (2) Appropriations from the environmental response
10 revolving fund established by section 128D-2;

11 (3) Appropriations from the deposit beverage container
12 deposit special fund established by section 342G-104;

13 (4) All fees and administrative charges collected under
14 this chapter or any rule adopted hereunder;

15 (5) Moneys collected as fines or penalties imposed under
16 this chapter or any rule adopted hereunder;

17 (6) Moneys derived from public and private sources to
18 benefit waste resource management; and

19 (7) Moneys derived from interest, dividend, or other
20 income from sources enumerated in paragraphs (1) to

21 (6)."



1 SECTION 3. Section 128D-2, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Moneys from the fund shall be expended by the
4 department for response actions and preparedness, including
5 removal and remedial actions, consistent with this chapter;
6 provided that the revenues generated by the "environmental
7 response and waste resource management tax" and deposited into
8 the environmental response revolving fund:

9 (1) Shall also be used:

10 (A) For oil spill planning, prevention, preparedness,
11 education, research, training, removal, and
12 remediation;

13 (B) For direct support for county used oil recycling
14 programs; [~~and~~]

15 (C) For deposit into the energy security special
16 fund, established under section 201-12.8, as may
17 be appropriated by the legislature; and

18 (D) For deposit into the waste resource management
19 fund, established by section 342G-B, as may be
20 appropriated by the legislature; and

21 (2) May also be used to support environmental protection
22 and natural resource protection programs, including



1 but not limited to energy conservation and alternative
2 energy development, and to address concerns related to
3 air quality, global warming, clean water, polluted
4 runoff, solid and hazardous waste, drinking water, and
5 underground storage tanks, including support for the
6 underground storage tank program of the department and
7 funding for the acquisition by the State of a soil
8 remediation site and facility."

9 SECTION 4. Section 243-3.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§243-3.5 Environmental response and waste resource**
12 **management tax; uses.** (a) In addition to any other taxes
13 provided by law, subject to the exemptions set forth in section
14 243-7, there is hereby imposed [~~at times provided in section~~
15 ~~128D-2~~] a state environmental response and waste resource
16 management tax of [~~5~~] 10 cents on each barrel or fractional part
17 of a barrel of petroleum product sold by a distributor to any
18 retail dealer or end user, other than a refiner, of petroleum
19 product; provided that _____ cents of the tax on each barrel
20 shall be used pursuant to section 128D-2 to address concerns
21 relating to drinking water. The tax imposed by this subsection
22 shall be paid by the distributor of the petroleum product.



1 (b) Revenues collected pursuant to this section shall be
2 distributed as follows, with excess revenues, if any, to be
3 deposited into the general fund:

4 (1) 5 cents of the revenue collected on each barrel shall
5 be deposited into the environmental response revolving
6 fund established by section 128D-2; and

7 (2) 5 cents of the revenue collected on each barrel shall
8 be deposited into the waste resource management fund
9 established by section 342G-B.

10 [~~b~~] (c) Each distributor subject to the tax imposed by
11 subsection (a), on or before the last day of each calendar
12 month, shall file with the director, on forms prescribed,
13 prepared, and furnished by the director, a return statement of
14 the tax under this section for which the distributor is liable
15 for the preceding month. The form and payment of the tax shall
16 be transmitted to the department of taxation in the appropriate
17 district.

18 [~~e~~] (d) Notwithstanding section 248-8 to the contrary,
19 the environmental response tax collected under this section
20 shall be paid over to the director of finance for deposit into
21 the environmental response revolving fund established by section
22 128D-2.



1 [~~(d)~~] (e) Every distributor shall keep in the State and
2 preserve for five years a record in such form as the department
3 of taxation shall prescribe showing the total number of barrels
4 and the fractional part of barrels of petroleum product sold by
5 the distributor during any calendar month. The record shall
6 show such other data and figures relevant to the enforcement and
7 administration of this chapter as the department may require."

8 SECTION 5. Section 342G-29, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~+~~]**§342G-29**[~~+~~] **Revisions to the state integrated solid**
11 **waste management plan.** (a) The [~~office~~] commission shall be
12 responsible for preparing revisions to the state integrated
13 solid waste management plan. The first revision shall be
14 completed within six months of the date that all four initial
15 county plans have been approved by the office. The [~~office~~]
16 commission shall complete each additional state revised plan
17 within six months of the date that all four county revised plans
18 have been approved by the [~~office-~~] commission. In the event
19 that not all four county revised plans have been approved by
20 December 31, 2009, the commission shall complete a state revised
21 plan by July 1, 2010.



1 (b) For each state revised plan, the [~~office~~] commission
2 shall convene a state integrated solid waste management [~~task~~
3 ~~force~~.] advisory council. The [~~office~~] commission shall involve
4 the [~~task force~~] advisory council in the review of the county
5 plans and the development of the state revised plan. The
6 commission shall convene an advisory council to review and
7 revise the state revised plan at least once every five years.

8 (c) For each state revised plan, the [~~office~~] commission
9 shall:

- 10 (1) Revise and update the material contained in the
11 previous plan or revised plan; and
12 (2) With comment from the [~~task force~~,] advisory council,
13 address other issues of statewide concern regarding
14 integrated solid waste management."

15 SECTION 6. Section 342G-104, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 (b) Moneys in the deposit beverage container deposit
18 special fund shall be used to reimburse refund values, pay
19 handling fees to redemption centers, fund the reverse vending
20 machine rebate program under section 342G-102.5, [~~and~~] fund the
21 redemption center and recycling infrastructure improvement
22 program established pursuant to section 342G-114.5[~~-~~], and fund



1 the waste resource management fund established by section

2 342G-B. The department may also use the money to:

3 (1) Fund administrative, audit, and compliance activities
4 associated with collection and payment of the deposits
5 and handling fees of the deposit beverage container
6 program;

7 (2) Conduct recycling education and demonstration
8 projects;

9 (3) Promote recyclable market development activities;

10 (4) Support the handling and transportation of the deposit
11 beverage containers to end-markets;

12 (5) Hire personnel to oversee the implementation of the
13 deposit beverage container program, including
14 permitting and enforcement activities; and

15 (6) Fund associated office expenses."

16 SECTION 7. In codifying the new sections added by section
17 2 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

20 SECTION 8. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect on July 1, 2009.

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INTRODUCED BY:

A handwritten signature in cursive script, appearing to be "Ron K..." with a long horizontal flourish extending to the right.

Norman Sakonjs

Carol Fukushima

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A handwritten signature in cursive script, appearing to be "Greg H. Auer" with a long horizontal flourish extending to the right.



Report Title:

Solid Waste; Management Commission

Description:

Establishes a solid waste management commission. Assigns responsibility for developing the State's integrated solid waste management plan to the commission and authorizes the commission to establish an advisory council. Establishes the waste resource management special fund. Funds the special fund with moneys from the environmental response tax and the deposit beverage container deposit special fund.

