

JAN 21 2010

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# A BILL FOR AN ACT

RELATING TO ENERGY.

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

1           SECTION 1. Agencies are interested in utilizing energy  
2 savings performance contracting to improve the energy efficiency  
3 of their facilities, addressing deferred maintenance, and  
4 reduced facility life cycle operating costs. However, the  
5 existing language in section 36-41, Hawaii Revised Statutes,  
6 that "[a]gencies that perform energy efficiency retrofitting *may*  
7 continue to receive budget appropriations for energy  
8 expenditures at an amount that shall not fall below the pre-  
9 retrofitting energy budget..." creates uncertainty and risk for  
10 agencies. Under energy savings performance contracting, the  
11 energy savings from the energy savings performance contracting  
12 project frees up a portion of the "pre-retrofitting energy  
13 budget" that is commonly used to enable the agencies to obtain  
14 municipal lease financing for their projects. This provides  
15 alternative financing that can allow projects to proceed  
16 expeditiously rather waiting for general obligation bond  
17 appropriations that may or may not come.



1 Energy savings performance contracting is a method of  
2 paying for facility improvements using energy and operational  
3 savings through a contracting vehicle that provides an  
4 opportunity to turn wasted energy and operating cost into  
5 capital improvements. Typically, the energy conservation  
6 measures and alternative energy measures are financed through a  
7 municipal lease agreement with annual payments funded by the  
8 guaranteed utility and energy-related operating and maintenance  
9 savings. The change from "may" to "shall" in section 36-41(a),  
10 Hawaii Revised Statutes, will remove the uncertainty for  
11 agencies regarding the ability to direct the savings from an  
12 energy savings performance contracting project available to fund  
13 the municipal lease payment. This will enable more energy  
14 savings performance contracting projects to be implemented,  
15 reduce Hawaii's dependency on foreign oil, lessen the utility  
16 pricing volatility due to increasing oil pricing, and provide  
17 the ability for agencies to address deferred maintenance issues  
18 without capital improvements project bond funding.

19 SECTION 2. Section 36-41, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:

21 "(a) All agencies shall evaluate and identify for  
22 implementation energy efficiency retrofitting through



1 performance contracting. Agencies that perform energy  
 2 efficiency retrofitting [~~may~~] shall continue to receive budget  
 3 appropriations for energy expenditures at an amount that shall  
 4 not fall below the pre-retrofitting energy budget but shall rise  
 5 in proportion to any increase in the agency's overall budget for  
 6 the duration of the performance contract or project payment  
 7 term."

8 SECTION 3. Statutory material to be repealed is bracketed  
 9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.

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**Report Title:**

Energy; Public Facilities

**Description:**

Ensures that agencies that enter into energy performance contracts shall continue to receive budget appropriations for energy expenditures in an amount that shall not fall below the pre-performance contract budget.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

