

S.B. NO. 2683

JAN 25 2010

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY PRODUCERS.

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

1 SECTION 1. Section 171-95.3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§171-95.3. Renewable energy producers; lease of public
4 lands without public auction. (a) The board may lease or renew
5 a lease of public lands to renewable energy producers, as
6 defined in section 171-95, without public auction only pursuant
7 to a public process that includes public notice under section 1-
8 28.5 providing other interested renewable energy producers
9 opportunity to participate in the process; provided that nothing
10 in this section shall be construed to prevent the board from
11 conducting direct negotiations; provided further that the
12 renewable energy producer shall be required to submit as part of
13 the proposal for the board's evaluation, as assisted by the
14 department of business, economic development, and tourism, the
15 following:

- 16 (1) A timeline for completion of the project;
17 (2) A description of a financial plan for project
18 financing;

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- 1 (3) A description of the conceptual design of the project;
2 (4) A description of the business concept for the project;
3 and
4 (5) A description of landscape and acreage requirements
5 including public and private lands.

6 This information shall be exempt from the requirements of
7 chapter 92F and shall be treated as confidential, proprietary
8 records.

9 Upon completion of the board's evaluation and determination
10 to award or not award a lease to a renewable energy producer,
11 the board shall prepare a report outlining the reasons for the
12 decision.

13 (b) A lease to a renewable energy producer under this
14 section shall not result in the involuntary termination of a
15 lease of public land held by an existing lessee who is currently
16 in compliance with the terms of the lease.

17 (c) To inform the public prior to the lease of public land
18 or the renewal of a lease of public land for a proposed
19 renewable energy project under this section, the department of
20 land and natural resources shall conduct [~~not less than two~~] a
21 public hearing[~~s on the island where the public land to be~~
22 ~~leased for~~] as part of its regularly scheduled meetings or as a

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1 separate hearing on the proposed renewable energy project [~~is~~
 2 ~~located~~]; provided that the notice of the hearing shall be
 3 published as provided in section 1-28.5. The board shall
 4 prepare and distribute an outline of the proposals for the
 5 renewable energy project and receive testimony from interested
 6 parties and the general public [~~at each public hearing~~].

7 [~~(d)~~ Any action taken by the board upon a proposal subject
 8 ~~to this section shall take place on the island where the public~~
 9 ~~land to be leased for the proposed renewable energy project is~~
 10 ~~located.~~


11 ~~(e)~~ (d) For any lease issued pursuant to this section, the
 12 renewable energy producer shall have the right of first refusal
 13 upon renewal of the lease."

14 SECTION 2. New statutory material is underscored and
 15 bracketed language is deleted.

16 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



 BY REQUEST

Report Title:

Renewable Energy Producers

Description:

Allows the Board of Land and Natural Resources to consider a renewable energy land lease as part of its customary public meeting schedule, avoiding the expense and delay of duplicative public hearings and allows proprietary business information regarding the land lease to remain confidential.

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY PRODUCERS.

PURPOSE: To expedite the approval of renewable energy projects on public lands by eliminating duplicative hearings; avoiding unnecessary costs by removing the requirement that the Board of Land and Natural Resources must meet on the island where the public lands are located; and ensuring that business data submitted to the Board is recognized as confidential and shall not be subject to public disclosure.

MEANS: Amend section 171-95.3, Hawaii Revised Statutes.

JUSTIFICATION: To meet our stated public goals of 70 percent renewable energy by the year 2030, the State must take deliberate steps to encourage and approve the siting of renewable energy facilities. Section 171-95.3 allows the Board of Land and Natural Resources to lease public lands to a renewable energy producer without public auction. However, the current law places costly and time-consuming requirements on the Board that would delay projects and impose additional unnecessary burdens on the project sponsors.

This bill would allow the Board to consider a renewable energy land lease as part of its normal public meeting schedule, avoiding the need to hold two special public hearings for the same purpose. Because the Board is governed by the State sunshine law, adequate public notification and posting of the meeting agenda will occur pursuant to section 1-28.5, Hawaii Revised Statutes. The public will also be afforded the

opportunity to submit testimony or testify in person.

Additionally, these amendments will allow the Board to consider the lease actions without incurring the expense or extra time of having to be physically on the island where the project is located in order to take action on a proposed renewable energy lease request.

Finally, this bill recognizes that the information provided by a renewable energy producer to the Board for its evaluation should be treated as proprietary, confidential data and shall not be subject to the provisions of the Uniform Information Act.

Impact on the public: Public notification, posting of the meeting notices, and opportunity for public comment will continue as required by current State laws, most notably section 1-28.5, Hawaii Revised Statutes. The public will no longer be required to appear at multiple hearings to present the same information. Companies seeking leases can be assured that the sensitive nature of the information they submit to the State will be protected and respected.

Impact on the department' and other agencies: These amendments will help save funds expended by the Board by reducing duplicative hearings and unnecessary travel.

GENERAL FUND: Estimated savings - \$10,000.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 101

OTHER AFFECTED
AGENCIES: Department of Business, Economic Development
and Tourism.

EFFECTIVE DATE: Upon approval.