
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. The legislature finds that the development of
2 hydroelectric energy-generating facilities in Hawaii is vital to
3 the energy security and energy independence of the State.
4 Increased use of renewable energy resources will achieve broad
5 societal benefits, including resistance to increases in oil
6 prices, environmental sustainability, economic development, and
7 job creation.

8 The legislature also finds that some of the sites that are
9 targeted for the development of hydroelectric energy-generating
10 facilities in Hawaii are located on agricultural lands.

11 Although various types of renewable energy facilities may be
12 constructed on agricultural lands, hydroelectric facilities may
13 not be constructed on agricultural lands.

14 The legislature further finds that the agricultural land in
15 the State is a fundamentally important and diminishing resource
16 that is pivotal to the State's initiatives in food security.
17 Therefore, the location, construction, and operation of



1 renewable energy facilities must be considered in a manner that
2 is beneficial to both food and energy security.

3 The purpose of this Act is to allow hydroelectric
4 facilities to be constructed on agricultural lands.

5 SECTION 2. Section 205-2, Hawaii Revised Statutes, is
6 amended by amending subsection (d) to read as follows:

7 "(d) Agricultural districts shall include:

- 8 (1) Activities or uses as characterized by the cultivation
9 of crops, crops for bioenergy, orchards, forage, and
10 forestry;
- 11 (2) Farming activities or uses related to animal husbandry
12 and game and fish propagation;
- 13 (3) Aquaculture, which means the production of aquatic
14 plant and animal life within ponds and other bodies of
15 water;
- 16 (4) Wind generated energy production for public, private,
17 and commercial use;
- 18 (5) Biofuel production, as described in section
19 205-4.5(a)(15), for public, private, and commercial
20 use;
- 21 (6) Solar energy facilities; provided that:



1 (A) This paragraph shall apply only to land with soil
2 classified by the land study bureau's detailed
3 land classification as overall (master)
4 productivity rating class B, C, D, or E; and
5 (B) Solar energy facilities placed within land with
6 soil classified as overall productivity rating
7 class B or C shall not occupy more than ten per
8 cent of the acreage of the parcel, or twenty
9 acres of land, whichever is lesser;

10 (7) Bona fide agricultural services and uses that support
11 the agricultural activities of the fee or leasehold
12 owner of the property and accessory to any of the
13 above activities, regardless of whether conducted on
14 the same premises as the agricultural activities to
15 which they are accessory, including farm dwellings as
16 defined in section 205-4.5(a)(4), employee housing,
17 farm buildings, mills, storage facilities, processing
18 facilities, agricultural-energy facilities as defined
19 in section 205-4.5(a)(16), vehicle and equipment
20 storage areas, roadside stands for the sale of
21 products grown on the premises, and plantation

- 1 community subdivisions as defined in section
2 205-4.5(a)(12);
- 3 (8) Wind machines and wind farms;
- 4 (9) Small-scale meteorological, air quality, noise, and
5 other scientific and environmental data collection and
6 monitoring facilities occupying less than one-half
7 acre of land; provided that these facilities shall not
8 be used as or equipped for use as living quarters or
9 dwellings;
- 10 (10) Agricultural parks;
- 11 (11) Agricultural tourism conducted on a working farm, or a
12 farming operation as defined in section 165-2, for the
13 enjoyment, education, or involvement of visitors;
14 provided that the agricultural tourism activity is
15 accessory and secondary to the principal agricultural
16 use and does not interfere with surrounding farm
17 operations; and provided further that this paragraph
18 shall apply only to a county that has adopted
19 ordinances regulating agricultural tourism under
20 section 205-5; ~~and~~
- 21 (12) Open area recreational facilities[-]; and



1 (13) Hydroelectric facilities; provided that where there
2 are appurtenances on land with soil classified by the
3 land study bureau's detailed land classification as
4 overall (master) productivity rating A, B, or C, there
5 is ongoing agricultural activity, as described in
6 paragraphs (1), (2), or (3), on that parcel.

7 Agricultural districts shall not include golf courses and golf
8 driving ranges, except as provided in section 205-4.5(d).

9 Agricultural districts include areas that are not used for, or
10 that are not suited to, agricultural and ancillary activities by
11 reason of topography, soils, and other related characteristics."

12 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) Within the agricultural district, all lands with soil
15 classified by the land study bureau's detailed land
16 classification as overall (master) productivity rating class A
17 or B shall be restricted to the following permitted uses:

18 (1) Cultivation of crops, including crops for bioenergy,
19 flowers, vegetables, foliage, fruits, forage, and
20 timber;

21 (2) Game and fish propagation;



- 1 (3) Raising of livestock, including poultry, bees, fish,
2 or other animal or aquatic life that are propagated
3 for economic or personal use;
- 4 (4) Farm dwellings, employee housing, farm buildings, or
5 activities or uses related to farming and animal
6 husbandry. "Farm dwelling", as used in this
7 paragraph, means a single-family dwelling located on
8 and used in connection with a farm, including clusters
9 of single-family farm dwellings permitted within
10 agricultural parks developed by the State, or where
11 agricultural activity provides income to the family
12 occupying the dwelling;
- 13 (5) Public institutions and buildings that are necessary
14 for agricultural practices;
- 15 (6) Public and private open area types of recreational
16 uses, including day camps, picnic grounds, parks, and
17 riding stables, but not including dragstrips,
18 airports, drive-in theaters, golf courses, golf
19 driving ranges, country clubs, and overnight camps;
- 20 (7) Public, private, and quasi-public utility lines and
21 roadways, transformer stations, communications
22 equipment buildings, solid waste transfer stations,



1 major water storage tanks, and appurtenant small
2 buildings such as booster pumping stations, but not
3 including offices or yards for equipment, material,
4 vehicle storage, repair or maintenance, treatment
5 plants, corporation yards, or other similar
6 structures;

7 (8) Retention, restoration, rehabilitation, or improvement
8 of buildings or sites of historic or scenic interest;

9 (9) Roadside stands for the sale of agricultural products
10 grown on the premises;

11 (10) Buildings and uses, including mills, storage, and
12 processing facilities, maintenance facilities, and
13 vehicle and equipment storage areas that are normally
14 considered directly accessory to the above-mentioned
15 uses and are permitted under section 205-2(d);

16 (11) Agricultural parks;

17 (12) Plantation community subdivisions, which as used in
18 this chapter means an established subdivision or
19 cluster of employee housing, community buildings, and
20 agricultural support buildings on land currently or
21 formerly owned, leased, or operated by a sugar or
22 pineapple plantation; provided that the existing



1 structures may be used or rehabilitated for use, and
2 new employee housing and agricultural support
3 buildings may be allowed on land within the
4 subdivision as follows:

5 (A) The employee housing is occupied by employees or
6 former employees of the plantation who have a
7 property interest in the land;

8 (B) The employee housing units not owned by their
9 occupants shall be rented or leased at affordable
10 rates for agricultural workers; or

11 (C) The agricultural support buildings shall be
12 rented or leased to agricultural business
13 operators or agricultural support services;

14 (13) Agricultural tourism conducted on a working farm, or a
15 farming operation as defined in section 165-2, for the
16 enjoyment, education, or involvement of visitors;
17 provided that the agricultural tourism activity is
18 accessory and secondary to the principal agricultural
19 use and does not interfere with surrounding farm
20 operations; and provided further that this paragraph
21 shall apply only to a county that has adopted



1 ordinances regulating agricultural tourism under
2 section 205-5;

3 (14) Wind energy facilities, including the appurtenances
4 associated with the production and transmission of
5 wind generated energy; provided that the wind energy
6 facilities and appurtenances are compatible with
7 agriculture uses and cause minimal adverse impact on
8 agricultural land;

9 (15) Biofuel processing facilities, including the
10 appurtenances associated with the production and
11 refining of biofuels that is normally considered
12 directly accessory and secondary to the growing of the
13 energy feedstock; provided that biofuels processing
14 facilities and appurtenances do not adversely impact
15 agricultural land and other agricultural uses in the
16 vicinity.

17 For the purposes of this paragraph:

18 "Appurtenances" means operational infrastructure
19 of the appropriate type and scale for economic
20 commercial storage and distribution, and other similar
21 handling of feedstock, fuels, and other products of
22 biofuels processing facilities.



1 "Biofuel processing facility" means a facility
2 that produces liquid or gaseous fuels from organic
3 sources such as biomass crops, agricultural residues,
4 and oil crops, including palm, canola, soybean, and
5 waste cooking oils; grease; food wastes; and animal
6 residues and wastes that can be used to generate
7 energy;

8 (16) Agricultural-energy facilities, including
9 appurtenances necessary for an agricultural-energy
10 enterprise; provided that the primary activity of the
11 agricultural-energy enterprise is agricultural
12 activity. To be considered the primary activity of an
13 agricultural-energy enterprise, the total acreage
14 devoted to agricultural activity shall be not less
15 than ninety per cent of the total acreage of the
16 agricultural-energy enterprise. The agricultural-
17 energy facility shall be limited to lands owned,
18 leased, licensed, or operated by the entity conducting
19 the agricultural activity.

20 As used in this paragraph:

21 "Agricultural activity" means any activity
22 described in paragraphs (1) to (3) of this subsection.



1 "Agricultural-energy enterprise" means an
2 enterprise that integrally incorporates an
3 agricultural activity with an agricultural-energy
4 facility.

5 "Agricultural-energy facility" means a facility
6 that generates, stores, or distributes renewable
7 energy as defined in section 269-91 or renewable fuel
8 including electrical or thermal energy or liquid or
9 gaseous fuels from products of agricultural activities
10 from agricultural lands located in the State.

11 "Appurtenances" means operational infrastructure
12 of the appropriate type and scale for the economic
13 commercial generation, storage, distribution, and
14 other similar handling of energy, including equipment,
15 feedstock, fuels, and other products of agricultural-
16 energy facilities;

17 (17) Construction and operation of wireless communication
18 antennas; provided that, for the purposes of this
19 paragraph, "wireless communication antenna" means
20 communications equipment that is either freestanding
21 or placed upon or attached to an already existing
22 structure and that transmits and receives



1 electromagnetic radio signals used in the provision of
2 all types of wireless communications services;
3 provided further that nothing in this paragraph shall
4 be construed to permit the construction of any new
5 structure that is not deemed a permitted use under
6 this subsection;

7 (18) Agricultural education programs conducted on a farming
8 operation as defined in section 165-2, for the
9 education and participation of the general public;
10 provided that the agricultural education programs are
11 accessory and secondary to the principal agricultural
12 use of the parcels or lots on which the agricultural
13 education programs are to occur and do not interfere
14 with surrounding farm operations. For the purposes of
15 this section, "agricultural education programs" means
16 activities or events designed to promote knowledge and
17 understanding of agricultural activities and practices
18 conducted on a farming operation as defined in section
19 165-2; [~~or~~]

20 (19) Solar energy facilities that do not occupy more than
21 ten per cent of the acreage of the parcel, or twenty
22 acres of land, whichever is lesser; provided that this



1 use shall not be permitted on lands with soil
2 classified by the land study bureau's detailed land
3 classification as overall (master) productivity rating
4 class A[-]; or

5 (20) Hydroelectric facilities, including the appurtenances
6 associated with the production and transmission of
7 hydroelectric energy, subject to section 205-2
8 (d) (13); provided that hydroelectric facilities and
9 their appurtenances meet and comply with instream flow
10 standards established by the commission on water
11 resource management and do not adversely impact or
12 impede the use of agricultural land or the
13 availability of surface or groundwater for irrigation
14 use on abutting parcels."

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Renewable Energy; Agricultural Land; Hydroelectric Facilities

Description:

Allows hydroelectric facilities that meet certain conditions to be constructed on agricultural lands that meet certain conditions. (SD1)

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

