

JAN 27 2021

A BILL FOR AN ACT

RELATING TO ENERGY ASSURANCE.

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

SECTION 1. Chapter 125C, Hawaii Revised Statutes, is amended by adding to part I four new sections to be appropriately designated and to read as follows:

"§125C-A Information and analysis required for state energy resiliency planning, energy assurance planning, and energy supply risk assessment planning. (a) The energy office, with its own staff and agents whom the chief energy officer designates as authorized representatives, shall use the information, including confidential information, received from all sources solely to effectuate the purposes of this chapter, chapter 127A, and chapter 196.

(b) The chief energy officer shall conduct systematic quantitative and qualitative analyses of the State's energy resources that the chief energy officer determines are necessary to:

(1) Assess and report on any actual or potential energy supply disruption or shortage that threatens to impair

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1 the public health, safety, and welfare and to preserve
2 the lives and property of the people of the State;

3 (2) Produce energy ecosystem assessments to determine
4 risks, vulnerabilities, criticalities,
5 interdependencies, impacts, consequences, and
6 mitigation strategies related to any actual or
7 potential emergency or disaster impacting the State;

8 (3) Develop an understanding of causes and effects of
9 transitional issues and trends related to changes in
10 the State's energy resources, systems, and markets;

11 (4) Establish and maintain baseline data and information
12 on Hawaii's statewide energy resources, systems, and
13 markets, and their relationships to energy investment
14 decisions and the economy in support of measures to
15 increase energy resiliency, reduce vulnerabilities,
16 and preserve Hawaii's energy security;

17 (5) Develop energy resiliency and emergency response plans
18 and measures, which in the event of an actual energy
19 shortage or supply disruption, are used to determine
20 and recommend what, if any, emergency government
21 intervention may be necessary and appropriate, and to
22 implement and evaluate the effectiveness of such

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1 emergency intervention while promoting informed,
2 transparent, and defensible decision making; and

3 (6) Produce other relevant energy analyses that the chief
4 energy officer deems necessary to administer the
5 energy resiliency planning, energy emergency planning,
6 energy assurance planning, and energy security
7 policies pursuant to this chapter, and other
8 activities in support of the chief energy officer's
9 role and responsibilities pursuant to chapters 127A,
10 196, and other relevant laws.

11 **§125C-B Confidential information.** (a) Information
12 provided to the energy office for the purposes of this chapter
13 shall be kept confidential to the extent it falls under an
14 exception to disclosure in section 92F-13.

15 (b) Unless otherwise provided by law, with respect to data
16 that the public utilities commission or energy office obtained
17 or was provided pursuant to this chapter, neither the public
18 utilities commission or energy office nor any employee of the
19 commission or energy office may do any of the following:

20 (1) Use the information furnished or obtained for any
21 purpose other than the purposes for which it is
22 supplied;

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(2) Make any publication whereby the data furnished by any person can be identified; or

(3) Permit any person other than the public utilities commission, the department of taxation, the attorney general, the consumer advocate, the energy office, and the authorized representatives and employees of each to examine the individual reports or statements provided.

§125C-C Confidential information obtained by another state agency. Any confidential information pertinent to the responsibilities of the energy office specified in this chapter that is obtained by another state agency, including the department of taxation, the attorney general, and the consumer advocate, shall be available only to the attorney general, the attorney general's authorized representatives, the energy office, and the public utilities commission and shall be treated in a confidential manner.

§125C-D Definitions. As used in this chapter, unless the context otherwise requires:

"Agent" means a person who is designated by the chief energy officer as an authorized representative.

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1 "Chief energy officer" means the chief energy officer of
2 the Hawaii state energy office, pursuant to section 196-72, and
3 the governor's authorized representative for energy.

4 "Dealer" means any person engaged in the retail sale of
5 fuel in Hawaii.

6 "Distributor" means any person who:

7 (1) Refines, manufactures, produces, or compounds fuel in
8 the State and sells it at wholesale or at retail;

9 (2) Imports or causes to be imported into the State, or
10 exports or causes to be exported from the State, any
11 fuel;

12 (3) Acquires fuel through exchanges with another
13 distributor; or

14 (4) Purchases fuel for resale at wholesale or retail from
15 any person described in paragraph (1), (2), or (3);

16 provided that "distributor" shall not include a marina, lessee
17 dealer-operated station, owner-operated station, or other
18 retailer that retails fuel only to end users or the public.

19 "Electricity" means all electrical energy produced by
20 combustion of any fuel, or generated or produced using wind, the
21 sun, geothermal heat, ocean water, falling water, currents, and
22 waves, or any other source.

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

3 "Energy office" means the Hawaii state energy office.

4 "Energy resources" means fuel, and also includes all
5 electrical or thermal energy produced by combustion of any fuel,
6 or generated, produced, or stored using wind, the sun,
7 geothermal heat, ocean water, falling water, currents, and
8 waves, or any other source.

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

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

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1 "Major energy producer" means any person who produces
2 energy resources in amounts determined by the chief energy
3 officer as having a major effect on the supplies of, or demand
4 for, energy resources.

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

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

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

17 SECTION 2. Chapter 125C, Hawaii Revised Statutes, is
18 amended by amending its title to read as follows:

19 "CHAPTER 125C

20 [~~PROCUREMENT, CONTROL, DISTRIBUTION AND SALE OF PETROLEUM~~
21 ~~PRODUCTS~~] ENERGY ASSURANCE AND FUEL SECURITY"

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SECTION 3. Section 125C-1, Hawaii Revised Statutes, is amended to read as follows:

"§125C-1 Findings and purpose. The legislature finds that adequate supplies of ~~[petroleum products]~~ energy resources are essential to the health, welfare, and safety of the people of Hawaii, and that any ~~[severe disruption in petroleum product supplies for use]~~ actual or potential disruption or shortage of energy resources within the State would cause grave hardship, pose a threat to the economic well-being of the people of the State, and have significant adverse effects upon public confidence and order and effective conservation of ~~[petroleum products.]~~ energy resources. The purpose of this chapter is to grant to the governor or the ~~[governor's authorized representative]~~ chief energy officer the clear authority, when the governor by proclamation declares the existence of a state of emergency in the State or when shortages of ~~[petroleum products]~~ energy resources occur or are anticipated, to acquire and analyze information, including confidential information, to conduct systematic quantitative and qualitative analyses required for state energy planning, energy assurance planning, energy emergency planning, and energy supply risk assessment and resilience. This authority allows the governor or chief energy

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1 officer to adequately plan and prepare for, respond to, recover
2 from, and mitigate against any actual or potential energy supply
3 disruption or shortage, and to preserve the State's energy
4 security. Another purpose of this chapter is to control the
5 distribution and sale of [petroleum] fuel products in this
6 State, to procure such products, and to impose rules that will
7 provide extraordinary measures for the conservation of
8 [petroleum] energy resources and the allocation of fuel products
9 and for [their] the distribution and sale of fuel in an orderly,
10 efficient, and safe manner."

11 SECTION 4. Section 125C-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "\$125C-2 "Shortage" and "state of emergency" defined. As
14 used in this chapter, unless otherwise indicated by the context,
15 a "shortage" exists whenever the governor determines that there
16 is an increase in the demand for any [petroleum] fuel product or
17 there is a decrease in the available supply for the [petroleum]
18 fuel product in question, or both; and [such] the decrease in
19 the available supply of or increase in the demand for the
20 [petroleum] fuel product in question, or both, may cause a major
21 adverse impact on the economy, public order, or the health,
22 welfare, or safety of the people of Hawaii and may not be

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1 responsibly managed within the [~~free~~] prevailing market
2 distribution system. "State of emergency" means an occurrence
3 in any part of the State that requires efforts by state
4 government to protect property, public health, welfare, or
5 safety in the event of an emergency or disaster, or to reduce
6 the threat of an emergency or disaster, or to supplement the
7 local efforts of the county. Further, the governor may, by
8 proclamation of a state of emergency in the State under section
9 127A-14, require [~~importers~~] major energy producers,
10 distributors, major energy marketers, major fuel storers, major
11 energy transporters, and major energy users of any [~~petroleum~~]
12 energy resource or fuel product [~~or other fuel~~] to monitor and
13 report to the [~~department of business, economic development, and~~
14 ~~tourism~~] energy office relevant supply and demand data[~~-~~] and
15 information, including confidential information, on aspects of
16 the State's energy resources, systems, and markets. The
17 governor shall review the status of a shortage within one
18 hundred twenty days after the governor's initial determination
19 of a shortage as defined under this chapter; thenceforth, the
20 governor shall conduct a review of the shortage to make a new
21 determination every thirty days until a shortage no longer
22 exists. Further, the monitoring and reporting authorities

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1 pursuant to a declared state of emergency in the State shall
2 terminate under the provisions contained in section 127A-14(d)."

3 SECTION 5. Section 125C-3, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§125C-3 Powers in a shortage[~~-~~] or state of emergency.**

6 When a shortage or a state of emergency in the State as defined
7 in section 125C-2 [~~exists,~~] has been declared by the governor,
8 the governor or the [~~governor's authorized representative,~~]
9 chief energy officer, to plan and prepare for, respond to,
10 recover from, and mitigate against any actual or potential
11 energy supply disruption or shortage, to preserve the State's
12 energy security, and to ensure that [~~petroleum~~] fuel products
13 and energy resources are made available to the public in an
14 orderly, efficient, and safe manner, may:

15 (1) Control the retail distribution and sale of
16 [~~petroleum~~] fuel products by adopting rules that may
17 include, but are not limited to, the following
18 measures:

19 (A) Restricting the sale of [~~petroleum~~] fuel products
20 to specific days of the week, hours of the day or
21 night, odd- and even-numbered calendar days, and
22 vehicles having less than a specified amount of

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gasoline in their tanks, with exceptions for
certain designated geographical areas;

(B) Restricting sales of [~~petroleum~~] fuel products by
dealers to daily allocations, which shall be
determined by dividing the monthly allocation by
the number of selling days per month;

(C) Requiring dealers to post signs designating their
hours of operation and the sell-out of daily
allocation;

(D) Instituting a statewide [~~rationing~~] shortage
management plan; and

(E) Allowing for special handling for essential
commercial and emergency-user vehicles[~~+~~].

(2) Require that a percentage of [~~petroleum~~] fuel
products, not to exceed five per cent, be set aside to
alleviate hardship; provided that aviation gasoline
set aside shall not exceed ten per cent;

(3) Purchase and resell or otherwise distribute
[~~petroleum~~] fuel products[, and purchase and resell or
~~otherwise distribute ethanol that is produced within~~
~~the State and can be used as a substitute for~~
~~petroleum products~~];

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1 (4) Temporarily suspend for the duration of a shortage or
2 a state of emergency, standards that may affect or
3 restrict the use of a substitute fuel to meet energy
4 demand;

5 (5) Implement fuel shortage emergency response measures,
6 including state government supply enhancement, supply
7 management, regulatory waivers, and demand restraint
8 measures, to assure fuel supplies for essential public
9 service during a shortage or state of emergency;

10 (6) Acquire and analyze information, including
11 confidential information, to conduct systematic
12 quantitative and qualitative analyses required for
13 state energy planning, energy assurance planning,
14 energy emergency planning, and energy supply risk
15 assessment and resilience;

16 ~~[(+4+)]~~ (7) Receive, expend, or use contributions or grants
17 in money or property, or special contributions thereof
18 for special purposes not inconsistent with this
19 chapter;

20 ~~[(+5+)]~~ (8) Borrow and expend moneys needed to exercise the
21 powers granted under this section;

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1 ~~[(+6)]~~ (9) Contract in the name of the State for the
2 purpose of implementing this chapter or any part
3 ~~[thereof;]~~ hereof; and

4 ~~[(+7)]~~ (10) Exercise the powers granted under this section
5 to the degree and extent deemed by the governor to be
6 necessary, including the temporary or indefinite
7 suspension of all or part of the measures taken, as
8 the governor deems appropriate."

9 SECTION 6. Section 125C-4, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§125C-4 Adopting, filing, and taking effect of rules.**

12 The governor or the ~~[governor's authorized representative]~~ chief
13 energy officer shall adopt rules pursuant to chapter 91, to
14 ~~[insure]~~ ensure that ~~[petroleum]~~ fuel products and energy
15 resources are made available to the public in an orderly,
16 efficient, and safe manner, to become effective when a shortage,
17 as defined in section 125C-2, exists. If additional and
18 unforeseen measures are required to ~~[insure]~~ ensure that
19 ~~[petroleum]~~ fuel products are distributed in an orderly,
20 efficient, and safe manner, the governor or the ~~[governor's~~
21 ~~authorized representative]~~ chief energy officer may proceed
22 without prior notice or hearing or upon such abbreviated notice

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1 and hearing as the governor finds practicable to adopt
2 additional rules authorized under this chapter with the
3 additional rules to be effective for a period of not longer than
4 one hundred twenty days without renewal. Any rule so adopted
5 may be amended or repealed by the [~~governor~~] chief energy
6 officer without prior notice or hearing or upon abbreviated
7 notice and hearing prior to the expiration of the one hundred
8 twenty-day period; provided that no amendment shall extend the
9 rule beyond the original period of one hundred [~~and~~] twenty
10 days. To be effective after the one hundred twenty-day period,
11 the rules shall be adopted pursuant to chapter 91. Each rule
12 adopted, amended, or repealed shall become effective as adopted,
13 amended, or repealed upon approval by the [~~governor~~] chief
14 energy officer and filing with the lieutenant governor. Each
15 rule in effect shall have the force and effect of law, but the
16 effect of each rule may be temporarily or indefinitely suspended
17 by the [~~governor~~] chief energy officer by written declaration
18 filed with the lieutenant governor. Each rule temporarily
19 suspended shall take effect again immediately upon expiration of
20 the suspension period. Each rule indefinitely suspended shall
21 take effect immediately upon the filing with the lieutenant

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1 governor of the written declaration by the ~~[governor]~~ chief
2 energy officer terminating the suspension."

3 SECTION 7. Section 125C-5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~+~~]**\$125C-5[~~+~~]** **Publication of rules and**
6 **declarations.** Within five days after the date of filing with
7 the lieutenant governor of each rule or declaration, the
8 ~~[governor]~~ chief energy officer shall make the rule or
9 determination known to the persons affected by it by publication
10 at least once in a newspaper of general circulation in the State
11 and in a newspaper that is printed and issued at least twice
12 weekly in the county within which those affected persons
13 reside."

14 SECTION 8. Section 125C-6, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[~~+~~]**\$125C-6[~~+~~]** **Petition for adoption, amendment, repeal,**
17 **or suspension of rules.** Any interested person may petition the
18 governor or the ~~[governor's authorized representative]~~ chief
19 energy officer requesting the adoption, amendment, repeal, or
20 suspension of any rule and stating reasons therefor. The
21 governor or the ~~[governor's authorized representative]~~ chief
22 energy officer shall prescribe the form for the petitions and

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1 the procedures for their submission, consideration, and
2 disposition[7] and, within thirty days after submission of the
3 petition, shall either deny the petition in writing, stating the
4 governor's or the [~~governor's authorized representative's~~] chief
5 energy officer's reasons for the denial, or grant the petition
6 and adopt, amend, repeal, or suspend the rule accordingly."

7 SECTION 9. Section 125C-8, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§125C-8 Personnel; delegation of powers.** (a) The chief
10 energy officer shall fulfill and effectuate the purposes of this
11 chapter.

12 (b) The governor or chief energy officer may appoint or
13 employ temporary boards, agencies, officers, employees, and
14 other persons, or any of them, for the purpose of carrying out
15 the provisions of this chapter. All such temporarily appointed
16 or employed officers and employees, whether or not employed by
17 contract, shall be exempt from and not subject to nor entitled
18 to the benefits of the provisions of chapters 76 and 88, or any
19 other law, collective bargaining agreement, executive order,
20 executive directive, or rule that is inapplicable to temporary
21 employees of the State."

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SECTION 10. Section 125C-9, Hawaii Revised Statutes, is amended to read as follows:

"[+]§125C-9[+] Investigations, information collection, and surveys. The governor or the ~~[governor's authorized representative]~~ chief energy officer may make investigations, collect information, including confidential information, and conduct surveys for the purpose of ascertaining facts to be used in administering this chapter, and in making the investigations, collecting the information, and conducting the surveys, may require the making, filing, or keeping of applications, schedules, records, reports, or statements, under oath or otherwise, administer oaths, take evidence under oath, subpoena witnesses, and require the production of books, papers, and records. Witnesses shall be allowed their fees and mileage as in cases in the circuit courts. The circuit court of any circuit or judge thereof may enforce by proper proceedings the attendance and testimony of any witness subpoenaed to appear within the circuit, or the production of books, papers, and records."

SECTION 11. Section 125C-10, Hawaii Revised Statutes, is amended to read as follows:

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1 "[~~§~~§125C-10[~~§~~] **Fraud; [~~misdemeanor.~~] penalties.** Any
2 person required by the governor or the [~~governor's authorized~~
3 ~~representative,~~] chief energy officer, pursuant to [~~section~~
4 ~~125C-9,~~] this chapter, to make, keep, or file any application,
5 schedule, record, report, or statement, whether or not under
6 oath, who intentionally makes, files, or keeps a false or
7 fraudulent application, schedule, report, or statement or
8 intentionally conceals therein any material fact, and any person
9 who in any other manner intentionally deceives or attempts to
10 deceive the governor or the [~~governor's authorized~~
11 ~~representative~~] chief energy officer with respect to any fact to
12 be used in administering this chapter, and any person who
13 intentionally fails to observe and comply with any rule
14 [~~promulgated~~] adopted under this chapter, shall be [~~guilty of a~~
15 ~~misdemeanor.~~] assessed a civil penalty of not more than \$10,000
16 per violation."

17 SECTION 12. Chapter 125C, Hawaii Revised Statutes, is
18 amended by amending the title of part II to read as follows:

19 "**PART II. HARDSHIP SET-ASIDE AND ALLOCATION OF [~~PETROLEUM~~] FUEL**
20 **PRODUCTS DURING A SHORTAGE OR STATE OF EMERGENCY**"

21 SECTION 13. Section 125C-21, Hawaii Revised Statutes, is
22 amended to read as follows:

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1 **"§125C-21 Definitions.** ~~["Petroleum]~~ As used in this part,
2 unless the context otherwise requires:

3 "Fuel product" means any fuel subject to the set-aside
4 system described in this chapter, including heating oils, [light
5 and heavy diesel oil,] all classifications of diesel fuels,
6 motor gasoline[7] and all blends of motor gasoline with other
7 fuel products, propane, butane, residual fuel oils, kerosene,
8 naphtha, biodiesel, ethanol, suboctane motor fuel, and aviation
9 fuels used for emergency and essential intrastate air transport
10 services, but excluding all other aviation fuels.

11 **"Prime supplier"** means any individual, trustee, agency,
12 partnership, association, corporation, company, municipality,
13 political subdivision, or other legal entity ~~[which]~~ that makes
14 the first sale of any ~~[liquid fossil]~~ fuel product into the
15 state distribution system for consumption within the State."

16 SECTION 14. Section 125C-22, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§125C-22 When set-aside required.** When a shortage or a
19 state of emergency as defined in section 125C-2 exists, should
20 the governor or the chief energy officer determine it necessary,
21 all prime suppliers shall set aside supplies of each ~~[petroleum]~~
22 fuel product for which there is a shortage. The amount set

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1 aside shall be in accordance with ~~[the]~~ any rules adopted by the
2 chief energy officer of the Hawaii State energy office."

3 SECTION 15. Section 125C-23, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§125C-23 Set-aside system.** The chief energy officer of
6 the Hawaii state energy office shall adopt rules establishing a
7 ~~[petroleum]~~ fuel products set-aside system. The purpose of this
8 system shall be:

9 (1) The protection of public health, safety, and welfare;

10 (2) The maintenance of public services, utilities, and
11 transportation, including emergency and essential
12 intrastate air and maritime transport services;

13 (3) The maintenance of critical agricultural and
14 aquaculture operations~~[, including farming,~~
15 ~~horticulture, dairy, fishing,~~] and related services;

16 (4) The preservation of economically sound and competitive
17 industry, through the equitable acquisition and
18 distribution of ~~[petroleum]~~ fuel products; and

19 (5) The promotion of efficiency~~[,]~~ and conservation, with
20 minimum economic disruptions, during a shortage of
21 ~~[petroleum]~~ fuel products.

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1 The rules establishing the set-aside system shall be adopted in
2 accordance with chapter 91."

3 SECTION 16. Section 125C-31, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~f~~]§125C-31[~~f~~ ~~Biennial state~~] State energy [~~emergency~~
6 ~~preparedness~~] assurance plan. (a) The [~~department of business,~~
7 ~~economic development, and tourism~~] energy office shall prepare a
8 comprehensive and integrated [~~biennial~~] state energy [~~emergency~~
9 ~~preparedness~~] assurance plan to be implemented in the event
10 of[~~7~~]a state of emergency, or in anticipation of[~~7~~] a change in
11 the State's [~~petroleum~~] energy supply or demand situation that
12 is judged by the governor or chief energy officer to be
13 unmanageable by the [~~free market.~~] prevailing markets. The
14 [~~department of business, economic development, and tourism~~]
15 energy office shall prepare a [~~biennial~~] state energy [~~emergency~~
16 ~~preparedness~~] assurance plan [~~in every even-numbered year~~] in
17 accordance with the following:

18 [~~(1) The biennial state energy emergency preparedness plan~~
19 ~~shall replace the energy emergency plan developed by~~
20 ~~the chief energy officer of the Hawaii State energy~~
21 ~~office, who shall act as the governor's authorized~~
22 ~~representative under this chapter;~~

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1 ~~+(2)+~~ (1) In preparing the [~~biennial~~] state energy
2 [~~emergency preparedness~~] assurance plan, the
3 [~~department~~] energy office shall:

4 (A) Solicit input, comment, and review from [~~the~~
5 ~~governor's energy emergency preparedness advisory~~
6 ~~committee composed of representatives of federal,~~
7 ~~state, and county governments; private energy~~
8 ~~suppliers; consumer and other public interest~~
9 ~~groups; and the public at large;~~] stakeholders,
10 including public, private, and nonprofit sector
11 organizations at the county, state, and federal
12 level; and

13 (B) Establish [~~other~~] task forces and advisory
14 groups, as may be deemed necessary, to assist in
15 the preparation and review of the [~~biennial~~]
16 state energy [~~emergency preparedness~~] assurance
17 plan;

18 ~~+(3)+~~ (2) The [~~biennial~~] state energy [~~emergency~~
19 ~~preparedness~~] assurance plan shall be comprehensive
20 and encompassing, and shall integrate into its
21 analytic and planning framework the plans of electric
22 and gas utilities and other energy suppliers, relevant

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1 state agencies, [~~including the department of~~
2 ~~transportation,~~] counties, and such other entities as
3 deemed appropriate; and

4 [(+4)] (3) The [~~biennial~~] state energy [~~emergency~~
5 ~~preparedness~~] assurance plan shall include a review
6 and update of the previous [~~biennial~~] state energy
7 [~~emergency preparedness~~] assurance plan and [~~a review~~
8 ~~of the energy emergency plans prepared by the~~
9 ~~counties.~~] shall be prepared or updated as determined
10 by the chief energy officer to be necessary to comport
11 with changes in federal or state overall emergency
12 management policies and plans that significantly
13 affect the State's energy assurance plan or as
14 warranted by changes in Hawaii's energy security.

15 (b) The [~~department~~] energy office shall prepare an energy
16 emergency communication plan, which shall be [~~updated~~
17 ~~biennially~~] part of the state energy assurance plan and shall be
18 consistent with [~~the energy emergency preparedness~~] any other
19 energy emergency management plans prepared by the counties[~~-~~]
20 and the State. The energy emergency communication plan shall be
21 used by the [~~State and counties~~] energy office to communicate
22 and otherwise coordinate [~~state and county~~] actions taken in

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1 response to implementing the [~~biennial~~] state energy [~~emergency~~
2 ~~preparedness~~] assurance plan."

3 SECTION 17. Section 125C-32, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~f~~]**\$125C-32[~~f~~ Biennial county] County energy emergency**
6 **preparedness plans.** The mayor of each county, or the mayor's
7 authorized representative, shall [~~prepare a comprehensive~~] be
8 responsible for preparing a county energy emergency preparedness
9 plan. The plan shall be prepared in coordination with and be
10 consistent with the [~~biennial~~] state energy [~~emergency~~
11 ~~preparedness~~] assurance plan[~~7~~] and shall be implemented in
12 coordination with the state energy [~~emergency preparedness~~]
13 assurance plan upon declaration of [~~an energy emergency by the~~
14 ~~governor.~~] [~~Not later than September 30 of every even-numbered~~
15 ~~year, each county shall prepare and transmit to the director of~~
16 ~~business, economic development, and tourism the county's~~
17 ~~biennial county energy emergency preparedness plan.~~] a shortage
18 or a state of emergency."

19 SECTION 18. In codifying the new sections added by section
20 1 of this Act, the revisor of statutes shall substitute
21 appropriate section numbers for the letters used in designating
22 the new sections in this Act.

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1 SECTION 19. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 20. This Act shall take effect upon its approval.
4

5 INTRODUCED BY: MMN. LIT.

6 BY REQUEST
7

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Report Title:

Energy Resiliency; Energy Resources; Energy Shortage; State of Emergency

Description:

Addresses deficiencies in Hawaii's fuel shortage response and energy emergency statutes; provides policy guidance on energy resiliency and actual or potential energy supply disruptions or shortages to preserve the State's energy resiliency and security and to ensure that fuel products and energy resources are made available to emergency services and the public in an orderly, efficient, and safe manner.

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

JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO ENERGY ASSURANCE.

PURPOSE: To address deficiencies in the State's petroleum shortage response statutes; provide up-to-date policy guidance on information and analysis required to prepare for, respond to, recover from, and mitigate against any actual or potential energy supply disruption or shortage in order to preserve the State's energy security and resiliency, and to better ensure that fuel products and energy resources are made available to emergency services and the public in an orderly, efficient, and safe manner; provide protections for confidential information collected to effectuate these purposes; clarify powers of Governor and the Chief Energy Officer in an energy shortage or state of emergency.

MEANS: Add four new sections to part I of chapter 125C, amend the titles of chapter 125C and part II of chapter 125C, and amend sections 125C-1, 125C-2, 125C-3, 125C-4, 125C-5, 125C-6, 125C-8, 125C-9, 125C-10, 125C-21, 125C-22, 125C-23, 125C-31, and 125C-32, Hawaii Revised Statutes.

JUSTIFICATION: A comprehensive approach is needed to address major deficiencies in outdated state statutes related to procurement, control, distribution and sale of petroleum products in response to a governor determined shortage. In line with recommendations in the national Quadrennial Energy Review and many other recent federal and state strategic and operational guidance and initiatives, states need the capacity to better identify the potential impacts from all types of energy disruptions (not just petroleum shortages), need the appropriate

information to both qualitatively and quantitatively assess the impacts of potential and actual energy disruptions, and develop comprehensive resiliency and response plans, which ensure a more rapid return to normal conditions after an emergency, disruption, or disaster. This approach and authority will enable the Chief Energy Officer of the Hawaii State Energy Office to better understand energy infrastructure and system vulnerabilities and consequences in order to make more informed decisions which contribute directly to a more secure and resilient energy ecosystem (systems, resources, and markets).

Amendments are necessary to provide authoritative policy support and functional guidance to meet the following critical needs of the State: (1) regain and update the law's relevance, consistency, and adequacy as contingency policy and planning guidance to accommodate actual and expected changes in Hawaii's energy infrastructure, security, and vulnerabilities stemming from significant changes in energy resources, systems, and markets; (2) update and align key provisions with relevant state overall emergency management laws, and energy assurance management policies and planning guidance, including requirements under Administrative Directive No. 15-01; (3) provide improvements and updates of the State's energy resiliency and assurance policy guidance, an important authoritative basis for programmatic improvements, including departmental administrative rules; and (4) provide clarity on the need for, use of, and legal authority to collect and protect energy information.

The bill: (1) establishes chapter 125C, Hawaii Revised Statutes, as the enabling statute for the State's energy resiliency and energy assurance program's coverage of all forms of energy shortage, disruption, or emergency (not just petroleum), in line with

the hazards, threats, and risks to the State's energy security and resilience of its energy ecosystem. These amendments are consistent with evolving federal, state, county, and private sector energy resources, emergency management, and energy resiliency programs and plans; (2) specifies the more holistic and comprehensive information and analysis required for effective state energy planning, energy resiliency planning, and energy supply risk assessment planning; (3) affords protections for any confidential information collected in effectuating the chapter; (4) provides consistent definitions of key terms; (5) clarifies powers of the Governor and Chief Energy Officer in an energy disruption, shortage, or a state of emergency; (6) makes other amendments for clarity and consistency and to reflect current best practices to advance state level energy emergency doctrine and energy resiliency planning.

Impact on the public: This bill will enhance the Chief Energy Officer's ability to preserve and protect the State's energy resiliency and security, minimizing adverse disruptions to the economy, public health, welfare, and safety of the public after a disruption or emergency. This bill lifts limits on the Chief Energy Officer's ability to develop and maintain a comprehensive and systematic quantitative and qualitative capacity to analyze the status of energy resources, systems, and markets in order to conduct energy emergency planning. Without this guidance and authority, the State's capabilities and capacity to prepare for, respond to, recover from, and mitigate against any actual or potential energy emergency, supply disruption, or shortage could be hindered, thereby causing a major adverse impact on the economy, public health, welfare, and safety of the people of Hawaii.

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Impact on the department and other agencies:
HSEO considers approval of these changes to be essential to its overall mission, because the energy information and data analysis and energy resiliency functions are critical components of the State Energy Office's mission in support of the roles of the Governor and the Chief Energy Officer, which contribute significantly to other agencies' missions. These statutory changes are directly supportive of and relevant to both the emergency powers necessary to prepare for and respond to emergencies and disasters conferred upon the Governor and the mayors of the counties, and the emergency management and homeland security functions of the State under the Department of Defense.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: BED-120.

OTHER AFFECTED
AGENCIES: Attorney General, Commerce and Consumer Affairs, Public Utilities Commission, State Department of Defense, State Department of Taxation, and State Department of Transportation.

EFFECTIVE DATE: Upon approval.