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Statement of  
**MIKE MCCARTNEY**  
Director

Department of Business, Economic Development, and Tourism  
before the

**HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION**

Tuesday, February 2, 2021

8:30 AM

State Capitol, Conference Room #325

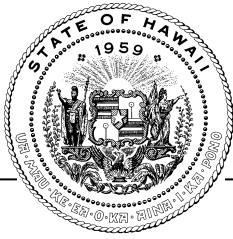
In consideration of  
**HB 906**  
**RELATING TO ENERGY ASSURANCE.**

Chair Lowen, Vice Chair Marten and Members of the Committee, the Department of Business, Economic Development and Tourism (DBEDT) **strongly supports** HB 906, an Administration bill, which updates Hawaii's petroleum shortage and energy emergency management (Energy Assurance) statutes in order to strengthen the State's ability under a Governor-declared state of emergency to reduce or prevent energy shortages that can cause significant adverse impacts on the economy, environment, public health, and the safety and welfare of the people of Hawaii.

The proposed amendments provide policy guidance to strengthen the state's capacity to develop a more holistic energy sector situational awareness under a declared emergency by:

- Enabling a better-informed assessment of energy supplies and systems prior to and after a disaster event; and
- Supporting more effective planning, decision making, and response actions for a quicker and more resilient energy recovery under a state of emergency.

Thank you for the opportunity to testify.



# HAWAII STATE ENERGY OFFICE STATE OF HAWAII

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Testimony of  
**SCOTT J. GLENN, Chief Energy Officer**

before the  
**HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION**  
Tuesday, February 2, 2021  
8:30 AM  
State Capitol, Conference Room 325

In consideration of  
**HB 0906**  
**RELATING TO ENERGY ASSURANCE.**

Chair Lowen, Vice Chair Marten and Members of the Committee, the Hawaii State Energy Office (HSEO) **strongly supports** HB 0906, an Administration bill, which updates Hawaii's petroleum shortage and energy emergency management (Energy Assurance) statutes, in order to strengthen the State's ability under a Governor-declared state of emergency to reduce or prevent shortages of energy that can cause significant adverse impacts on the economy, environment, public health, and the safety and welfare of the people of Hawaii.

Under current emergency plans, the HSEO is responsible for administering the State's Resilience and Energy Assurance program and plans. This includes planning, training, and exercising to prepare for, respond to, and recover from "all hazards" state emergency and disaster events to maintain energy sector situational awareness and to ensure delivery of the energy needed for critical public services.

The primary state authoritative guidance for these functions are the decades-old petroleum shortage statutes in Chapter 125C, Hawaii Revised Statutes. These provisions, however, no longer align with government and industry energy emergency best practices. Nor do they adequately enable the state to successfully develop the technical and analytic perspective necessary for a common operating picture of all the

state's energy resources, including increasing amounts of renewable energy, and systems under a state of emergency – a requirement for any effective response.

The HSEO believes that clarity of functional roles and clearly delineated authority for implementation is essential. HB 0906 and these proposed amendments provide the policy guidance to better address exposure to energy supply disruption risk over the next decade.

These changes support better informed decision making and implementation of any government and industry resource requests and response actions for a faster and more resilient recovery.

We believe that this bill is a critical component not only to effectively plan for and respond to the variety and complexity of the threats, hazards, and risks that Hawaii's energy systems and resources face today, but also to better ensure that fuel products and energy resources are made available to emergency services and critical public needs in a safe, orderly, and efficient manner.

Thank you for the opportunity to testify.

THE CIVIL BEAT  
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House Committee on Energy & Environmental Protection  
Honorable Nicole E. Lowen, Chair  
Honorable Lisa Marten, Vice Chair

**RE: Testimony Commenting on H.B. 906, Relating to Energy Assurance**  
Hearing: February 2, 2021 at 8:30 a.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote government transparency. Thank you for the opportunity to submit testimony commenting on H.B. 906. **Newly proposed sections 125C-B and 125C-C are duplicative of provisions in HRS chapter 92F and serve no purpose other than to establish grounds for criminal charges against government employees.**

Proposed Section 125C-B provides that information must be withheld from the public if it falls under an exception to disclosure in HRS § 92F-13. Section 92F-13 already provides that any information within its exceptions may be withheld from the public. The only thing that Proposed Section 125C-B adds is mandatory confidentiality.

Mandatory confidentiality is relevant only as it concerns criminal penalties for disclosure of information. HRS § 92F-17(a).<sup>1</sup> Mandatory confidentiality should be used sparingly because it has a chilling effect on an agency's willingness to provide any information—*even information that does not fall within the confidentiality provision*. Fear of criminal penalties leads agencies to insist on court orders to disclose information that delay public access for months, if not years.

Proposed Section 125C-C merely duplicates the intent of HRS § 92F-19(b) that confidential documents properly shared with another government agency must be kept confidential by that receiving agency. HRS § 92F-19(b).<sup>2</sup>

The public would be better served by deleting Proposed Sections 125C-B and 125C-C.

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<sup>1</sup> "An officer or employee of an agency who intentionally discloses or provides . . . any confidential information explicitly described by specific confidentiality statutes, to any person or agency with actual knowledge that disclosure is prohibited, shall be guilty of a misdemeanor, unless a greater penalty is otherwise provided for by law."

<sup>2</sup> "An agency receiving government records pursuant to subsection (a) shall be subject to the same restrictions on disclosure of the records as the originating agency."

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Thank you again for the opportunity to provide comments on H.B. 906.



**Testimony to the Committee on Energy and Environment Protection**

**Tuesday, February 2, 2021**

**8:30 AM**

**VIA Video Conference**

**Conference Room 325, Hawaii State Capitol**

**HB 906**

Chair Lowen, Vice Chair Marten, and members of the committee,

Hawaii Gas offers comments on HB 906, which 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.

Hawaii Gas agrees that planning and preparation for emergency scenarios is of utmost importance to Hawaii, its residents, and our state’s energy resources. That is why Hawaii Gas has in place an in-depth emergency preparedness plan that is reviewed, updated, and practiced on a regular basis.

Hawaii Gas has operated its system uninterrupted for over 100 years, with the one exception of the bombings at Pearl Harbor in 1941. In that situation, Hawaii Gas made the immediate and prudent decision to shut down the system to avoid any damage, which was successful.

Hawaii Gas is part of the Hawaii Energy Management Agency and provides them specific information on supply should a disaster occur. We also follow the “priority order” guidance from the agency regarding the priority order in which customers should receive gas.

As the bill is currently written, however, we have serious concerns about issues of confidentiality —how that information might be used, how the confidentiality might be penetrated, and what information is necessary versus the scope of potentially unnecessary information that might be requested. Additionally, the heightened concerns about data security and cyber-attacks nationally gives us pause when sharing any information externally. We would request to work closely with the Energy Office to ensure all appropriate protocols are in place should this bill move forward.

Under the Department of Homeland Security, there are rules about making certain information available to anyone outside those who need to know, a requirement called Chemical-Terrorism Vulnerability (CVI). Within Hawaii Gas, only certain people who are trained and certified under DHS CVI guidelines and authorized to access key information are allowed to access things like exact volumes of substances stored at specific facilities. As written, this bill could require that



information be made available to others in conflict with CVI, possibly usurping federal regulations.

The unintended consequences of this bill, as written, could be severe, exposing proprietary information, homeland security-related information, and financial information that may be already managed by the federal government and private entities.

Until these issues are resolved and the intended goals, impact, use, and action related to the information shared can be fully vetted, we urge the legislature to continue discussions with all affected stakeholders.

Thank you for the opportunity to testify.