

ACT 202

S.B. NO. 2172

A Bill for an Act Relating to the Clean Hawaii Center.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Hawaii's energy resources and physical environment must be managed and protected in a manner that ensures the health, safety, and welfare of the citizens of the State and preserves our limited natural resources for future generations. The 1993 Energy and Environmental Summit was convened by the legislature on October 8, 1993, to identify issues and build broad-based support for initiatives that will move Hawaii forward in the areas of energy and the environment. This Act is the result of the collaborative efforts of participants of the Summit.

The legislature further finds that Act 312, Session Laws of Hawaii 1993, established a system of funding to support solid waste management programs and activities of the department of health, and to place the cost of the activities on the waste generator. The environmental management special fund created by Act 312 receives moneys from a solid waste disposal surcharge paid by the entity doing the disposal based on the tonnage of waste disposed of at the facility. As administrator of the special fund, the department of health is required to use the moneys to partially fund the operating costs of the solid waste management program, annual training for municipal solid waste operators, and statewide education, demonstration, and market development programs through direct contracts with the counties and the department of business, economic development, and tourism.

Act 324, Session Laws of Hawaii 1991, codified the State's goal of reducing the solid waste stream by twenty-five per cent by January 1, 1995, and by fifty per cent by January 1, 2000. Although state and county agencies as well as private industry have worked earnestly to encourage recycling, the current infrastructure for collecting, processing, and transporting post-consumer recyclable material is still inadequate. Only about nine per cent of the solid waste generated in the State is being recycled. One reason is that most of Hawaii's recycled materials are currently exported, since local markets for recycled goods are almost nonexistent.

The legislature believes that if there is to be significant progress in the diversion of a larger portion of solid waste from landfills, local markets for

recycled products must be developed or expanded immediately. Local market development also would benefit the State by:

- (1) Reducing its reliance on export markets requiring overseas shipment;
- (2) Creating business and employment opportunities for residents;
- (3) Reducing dependency on imported goods with recycled content; and
- (4) Reducing dependency on landfills and incineration facilities.

The neighbor islands in particular could benefit from these programs in that available landfill space is being rapidly filled by the growing needs of increasing populations. Additionally, with the demise of the sugar industry in neighbor island counties, the economic diversification that solid waste diversion programs would provide would assist in the stabilization of an already diminished economic base.

The purpose of this Act is to create the clean Hawaii center to encourage and foster the development of small and emerging recycling businesses; and the development of innovative techniques and the application of advanced technology in industry to reduce pollution, extend the life of landfills, save costs of disposal, and recycle valuable resources from the waste stream. The legislature believes that the mechanism set up in this Act will be effective because it provides for joint decision-making in market development policies with representation from the State, counties, and private industry.

The legislature has determined that the clean Hawaii center will benefit the State and the counties by:

- (1) Reducing the tonnage entering traditional disposal operations, such as landfills and incineration facilities. This reduction extends the life of the landfills and lessens the need to make extensive, mandatory, and costly alterations to existing incinerators such as Waipahu Incinerator and H-Power on the island of Oahu. This reduction, therefore, results in disposal cost savings to the counties, businesses, and residents; and
- (2) Increasing the tax revenues realized by the counties and the State as new businesses are developed and jobs are created.

SECTION 2. There is established within the department of business, economic development, and tourism, for administrative purposes only, the clean Hawaii center which shall be responsible for the market development of local processing and manufacturing industries for collected recyclables.

The duties of the center shall be to:

- (1) Provide targeted assistance to recycling businesses, including:
 - (A) Grants for research and demonstration; and
 - (B) Low-interest, long-term loans leveraged through the Hawaii capital loan program, the Hawaii Strategic Development Corporation, the Hawaii Economic Development Corporation, the High Technology Development Corporation, the Hawaii innovative development fund, other state and federal financing programs, and private sector mechanisms including the Small Business Administration, targeting start-up and implementation costs;

provided that the aggregate total of grants and loans under this paragraph shall be within the range of \$250,000 to \$1,000,000 from state programs;

- (C) The development of business plans;

- (D) Market research and planning information;
- (E) Referral and information on market conditions; and
- (F) Information on new technology and product development;
- (2) Undertake, in coordination with the department of health and county recycling programs, an integrated, comprehensive, education effort directed at government agencies, businesses, and the general public to promote processing, manufacturing, and purchase of recycled products. The education effort shall include:
 - (A) Providing information to businesses on the availability and benefits of using recycled materials;
 - (B) Providing information and referral services on recycled material markets; and
 - (C) Providing information on new research and technologies that may be used by local businesses and governments;
- (3) Assist the department of health, department of accounting and general services, and the counties in the development of consistent definitions and standards for recycled product content, product performance, and availability;
- (4) Coordinate with the department of health to ensure that the education programs of both agencies are mutually reinforcing, with the center acting as the lead with respect to the business community and the department of health as the lead with respect to the general public; and
- (5) Facilitate, where possible, cooperative marketing of recyclable materials.

In addition to other powers conferred upon it, the clean Hawaii center may do all things necessary and convenient to carry out the powers expressly given in this Act.

SECTION 3. (a) The clean Hawaii center shall operate under policies established by a governing board to be composed of one representative from each of the four counties to be appointed by the respective mayors, and the following to be appointed by the governor in accordance with section 26-34: one representative each from the department of business, economic development, and tourism and the department of health; two representatives from the financial community; and four representatives from the business community, two of which shall be from the recycling and waste management industry. The governing board shall be constituted no later than sixty days following the effective date of the Act. The department of health and the department of business, economic development, and tourism shall provide administrative and staff support to assist the start-up of the clean Hawaii center.

(b) A board member shall not participate in any decision to invest in, purchase from, sell to, borrow from, loan to, contract with, or otherwise deal with any person or entity in which the board member has a substantial financial interest.

(c) The governing board shall use the following criteria, at a minimum, when evaluating recycling projects to develop and fund:

- (1) The project's potential to have an impact on overall solid waste reduction and achievement of the State's reduction goals;
- (2) Whether the project addresses the alternative management of wastes identified by the solid waste disposal facility operators as problematic;

- (3) Whether the project maximizes economic benefits through import reduction or an increase in the tax base;
- (4) The project's potential for job creation; and
- (5) Whether the board has been presented with a business plan that reflects detailed and justifiable expenses and revenues, and shows potential for profit and the ability to meet market demand for end products.

(d) The use of state funds, lands, or other resources for county waste reduction activities shall be restricted to those counties whose solid waste management programs are consistent with the requirements of chapter 342G, Hawaii Revised Statutes, and applicable county integrated solid waste management plans approved pursuant to chapter 342G, Hawaii Revised Statutes.

SECTION 4. It is the goal of the clean Hawaii center to foster the growth of a reuse or recycling industry by 1999, by:

- (1) Diverting at least 400,000 tons of material annually to reuse and remanufacturing businesses in Hawaii;
- (2) Establishing cooperative marketing agreements with foreign end users of recyclable material;
- (3) Assisting at least ten new or expanded reuse or recycling businesses to become fully operational;
- (4) Creating at least two hundred new reuse or remanufacturing jobs; and
- (5) Creating at least seventy-five new private sector waste collection and processing jobs.

SECTION 5. (a) The department of business, economic development, and tourism shall develop and submit for approval to the governing board a work plan for each of the first two years of operation of the clean Hawaii center. The plan shall describe:

- (1) A strategy for integrating and leveraging other state funding and assistance programs, and county and federal financing programs that could assist in the development of a remanufacturing industry in Hawaii;
- (2) A strategy for developing a remanufacturing and recycling industry in Hawaii;
- (3) The department's actions and recommendations for developing markets for commodities comprising a significant percentage of the waste stream and having the greatest potential for use as an industrial or commercial feedstock;
- (4) Market promotion and research promoting the use of locally-produced soil amendments made from recycled organic material;
- (5) The development of the capacity to process and reuse construction and demolition waste material through both processing of non-reusable waste into new products and the reuse of valuable elements in the demolition waste stream through source separation, salvage, and repair;
- (6) The development of the capacity for manufacturing of recycled paper products (both wet and dry process) and product promotion; and

- (7) The expansion of capacity for mixed plastic resin extrusion processing through the increase in the flow of a quality feedstock (collection and processing capacity) and expanded market promotion.

SECTION 6. (a) The department of business, economic development, and tourism shall develop and submit an expenditure plan for the first year of operation to the governing board for approval. This expenditure plan shall indicate:

- (1) The amounts which should be expended for loans and grants in accordance with the priorities and guidelines established under this Act; and
- (2) The amounts to be used to develop the organizational structure and administrative rules for the operation of the clean Hawaii center; hire a program manager and one additional staff person; and implement appropriate outreach, education and training programs.

In subsequent years, the clean Hawaii center and the department of business, economic development, and tourism shall work collaboratively in developing future expenditure plans.

(b) The governing board, no later than twenty days prior to the convening of the regular session of 1995, shall submit to the legislature a progress report on the clean Hawaii center program and, no later than twenty days prior to the convening of the regular session of 1996, shall submit to the legislature an organizational and implementation plan for the operation of the clean Hawaii center until the year 1999.

On or before January 1, 1999, the governing board shall submit to the legislature a final report on the operation of the center.

SECTION 7. Chapter 342G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§342G- Clean Hawaii fund established. There is established within the state treasury a special fund to be known as the clean Hawaii fund which shall be administered by the department of business, economic development, and tourism to fund the activities of the clean Hawaii center. All moneys derived from:

- (1) Other funding mechanisms established by future state laws; and
- (2) Any other moneys as may be received by the clean Hawaii center in the form of federal, county, or private grants, or gifts

shall be deposited into the clean Hawaii fund."

SECTION 8. Section 210-6, Hawaii Revised Statutes, is amended to read as follows:

"§210-6 Direct loans, terms, and restrictions. (a) The department of business, economic development, and tourism may make loans to small business concerns for the financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials, or for the supplying of working capital. The loans may be made in conjunction with loans made by other financial institutions, including the SBA. Where the loans made by the department are secured, the security may be subordinated to the loans made by other financial institutions, when the

subordination is required in order to obtain loans from such institutions. The necessity for and the extent of security required in any loan shall be determined by the director of business, economic development, and tourism.

(b) The foregoing powers shall be subject, however, to the following restrictions and limitations:

- (1) No loans shall be granted unless financial assistance is not available to the applicant. The condition may be waived by the director for participation loans with a private financial institution.
- (2) The amount of the loan or loans to any one applicant at any one time shall in no case exceed a total of \$1,000,000.
- (3) No loan shall be made for a term exceeding twenty years.
- (4) Each loan shall bear simple interest at a rate of one per cent below the prime rate or at a rate of seven and one-half per cent a year, whichever is lower. For purposes of this paragraph, the prime rate shall be determined on January 1 and July 1 of each year, and shall be the rate charged by the two largest banks in the State of Hawaii identified by the department of commerce and consumer affairs. Should there be a difference in rate charged by the institutions, the lower of the two shall be utilized.
- (5) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of five years.
- (6) The payment of interest on the principal of a loan may be deferred by the director, but in no event shall interest payments be deferred in excess of two years from the date of issuance of the loan.

(c) Any restriction or limitation in subsection (b) may be waived at the director's discretion where the applicant is a reuse or recycling business that meets the following criteria:

- (1) The business has potential to have an impact on overall solid waste reduction and achievement of the State's reduction goals;
- (2) The business addresses the alternative management of wastes identified by the solid waste disposal facility operators as problematic;
- (3) The business maximizes economic benefits through import reduction or an increase in the tax base;
- (4) The business has potential for job creation; and
- (5) The business has a plan that accurately reflects detailed and justifiable expenses and revenues, shows potential for profit, and an ability to meet market demand for end products."

SECTION 9. The clean Hawaii center shall cease to exist on June 30, 1999.

SECTION 10. New statutory material is underscored.¹

SECTION 11. This Act shall take effect upon its approval.

(Approved June 21, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.