

ACT 83

S.B. NO. 3108

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 enacted Act 202, Session Laws of Hawaii 1994, which created the clean Hawaii center. The purpose of the center is to work in partnership with business and government to develop and expand commercial markets for recyclable materials, recycled content products, and to facilitate recycling and environmental business and technology development. Act 202 established ambitious goals for the clean Hawaii center to:

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

These goals were developed to support the State in reaching waste diversion goals established in Act 324, Session Laws of Hawaii 1991, which require a fifty per cent diversion (or approximately one million tons) of the waste stream by the year 2000. The legislature further enacted Act 2, Special Session Laws of Hawaii 1995, which clarified the legislative intent of Act 202 and provided operational authority for the clean Hawaii center and its governing board.

The legislature recognizes that the disposal of the State's almost two million tons of rubbish each year costs the public and private sectors more than \$250,000,000 annually. The legislature further recognizes that the value of recovered materials found in the waste stream such as waste paper, waste glass, plastic, aluminum cans, and tree or grass trimmings can reach an average \$45 per ton, with certain grades of waste paper often reaching as high as \$200 per ton, and aluminum often valued at \$700 per ton. Since the State has established a goal of a fifty per cent recycling rate by the year 2000 (or approximately 1,000,000 tons of material), the legislature believes that the value of recycling and the cost savings realized by diverting recyclable materials is a critical goal for the State's economy, and one that should be supported through business development efforts.

The legislature finds, however, that administrative and budgetary restrictions have constrained the ability of the clean Hawaii center's governing board to properly direct the policy, operations, and budget of the clean Hawaii center. The legislature further finds that the State's fiscal problems have resulted in the center's staff being limited to one person, and the department having reduced the legislature's budget allocation from \$150,000 to \$85,000 in fiscal year 1995-1996 with recommended further reductions to \$50,000 in fiscal year 1996-1997. As a result of these restrictions, the legislature believes that the goals and objectives outlined in Act 202 are not achievable and that the industry is not being supported with business development incentives. The legislature believes, however, that in spite of these difficulties, the mission of the center remains valid and that much has been accomplished with limited resources.

The legislature believes that although the waste diversion goals are necessary given the limited landfill options, the lack of financial, political, and administrative support will not allow them to be reached.

The purpose of this Act is to:

- (1) Provide a more realistic framework under which the department may act to assist the emerging recycling industry in Hawaii;
- (2) Dissolve the governing board of the clean Hawaii center and authorize the department to assume the duties previously assigned to the board;
- (3) Maintain clean Hawaii center's programs until June 30, 1999; and
- (4) Authorize the department to receive moneys from other government agencies through a simple transfer of funds.

SECTION 2. Section 210-3.5, Hawaii Revised Statutes, is amended to read as follows:

“[§210-3.5] 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;
- (2) All moneys appropriated to the fund by the legislature, received in fees and other royalties, earned on investments, or received as royalties or premiums; and
- (3) Any other moneys as may be received by the clean Hawaii center in the form of federal, state, county, or private grants, contracts, [or] gifts[;], or direct transfer of funds by federal, county, or other state agencies;

shall be deposited into the clean Hawaii fund and used for the purposes of Act 202, Session Laws of Hawaii 1994. The department may use appropriations and other moneys in the clean Hawaii fund not appropriated for a designated purpose, to make grants in accordance with criteria established by the clean Hawaii center, enter into contracts, pay for travel expenses of [board] committee members, administrative

expenses, organize, conduct, sponsor, or cooperate in the conduct of conferences, workshops, demonstrations, and studies relating to the stimulation and formation of a recycling or environmental business.’’

SECTION 3. Section 342G-63, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department shall expend moneys contained in the environmental management special fund to:

- (1) Partially fund the operating costs of the program including its regulatory functions and the development of waste reduction and diversion activities as mandated by chapter 342G;
- (2) Fund statewide education, demonstration, and market development programs, through direct contract [with] or direct transfer of funds to the counties and the department of business, economic development, and tourism, or under a grant program that may be developed under rules pursuant to chapter 91; and
- (3) Provide for annual training for municipal solid waste operators in compliance with 40 Code of Federal Regulations Part 258 and chapter 11-58, Hawaii Administrative Rules [Title 11, Chapter 58 (Proposed Revision)].’’

SECTION 4. Act 202, Session Laws of Hawaii 1994, as amended by Act 2, Special Session Laws of Hawaii 1995, is amended as follows:

1. By amending section 2 to read:

“SECTION 2. (a) 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.

(b) The duties of the center shall be to:

- (1) Provide targeted assistance to recycling businesses, including:
 - (A) Grants and contracts 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;
 - (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;
 - (5) Facilitate, where possible, cooperative marketing of recyclable materials; and
 - (6) Administer the clean Hawaii fund.
- (c) 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 and implicitly given in this Act, including but not limited to[;]:
- (1) Contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the center including, but not limited to: advisory services, technical, managerial, and marketing assistance, support, and promotion;
 - (2) Accept donations, grants, bequests, and devises of money, including direct transfers of funds, property, [service,] services, or other things of value that may be received from the United States or any agency thereof, the State or any agency thereof, any governmental agency, or any public or private institution, person, firm, or corporation, to be held, used, or applied for any or all of the purposes specified in this Act detailing receipt of each donation or grant in the annual report of the center, and including the identity of the donor or lender, the nature of the transaction, and any conditions attaching thereto;
 - (3) Disburse moneys in the clean Hawaii fund, including the expenditure of all appropriations, grants, contractual reimbursements, and other funds to carry out the purposes of the center and pay for the proper general expenses of the center;
 - (4) Organize, conduct, sponsor, or cooperate in and assist in the conduct of conferences, demonstrations, and studies relating to the stimulation and formation of a business; and
 - (5) Promote, facilitate, contract out for, administer, or manage recycling parks; and
 - (6) Adopt rules pursuant to chapter 91 to carry out the purposes of this Act.”

2. By amending section 3 to read:

“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) All members shall serve without compensation, but shall be reimbursed for travel expenses necessary for the performance of their duties.

(d) The board shall annually elect its chairperson and vice chairperson from among its members.

(e)] (a) Grants may be made for amounts not to exceed \$100,000 for each applicant. Applications for grants shall be made to the center and contain such information as the center shall require by rules adopted pursuant to chapter 91, Hawaii Revised Statutes.

[(f)] (b) Chapter 42D, Hawaii Revised Statutes, shall not apply to the grants made pursuant to this Act.

[(g)] Any discussion or consideration of trade secrets or confidential commercial or financial information shall be held by the board, or any subcommittee of the board, in executive sessions closed to the public; provided that the purpose of any such executive session shall be set forth in the official minutes of the center, and business which is not related to that purpose shall not be transacted nor shall any vote be taken during the executive sessions.

(h)] (c) The [governing board] department 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 has been presented that reflects detailed and justifiable expenses and revenues, and shows potential for profit and the ability to meet market demand for end products.

[(i)] The board or a committee of the board shall review all business plans, except financial statements or personal information, to assess whether the proposed business or enterprise is likely to achieve the purposes of this Act, and shall make recommendations to the department regarding the appropriateness of the proposed business or enterprise. The department shall have final authority to approve or disapprove the loan or grant application.

(j)] (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.

(e) The governing board shall cease to exist on June 30, 1996.

(f) The department may appoint committees from the public and private sectors, which shall include representatives from the neighbor islands, to provide advice and direction for the operation of the center until its closure in 1999."

3. By amending section 4 to read:

"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)] (1) Establishing cooperative marketing agreements with foreign end users of recyclable material; and

- [(3) (2) Assisting [at least ten new or expanded] interested 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].”

4. By amending section 5.1 to read:

“SECTION 5.1. The department of business, economic development, and tourism shall have the necessary powers to carry out the purposes of this Act and administer the clean Hawaii center, including but not limited to:

- (1) [With advice from the board, prescribe] Prescribing the qualifications for eligibility of applicants for grants;
- (2) [With advice from the board, establish] Establishing preferences and priorities in determining eligibility for grants; and
- (3) [Include] Including in its budget for subsequent fiscal periods amounts necessary to effectuate the purposes of this Act.”

5. By amending section 6 to read:

“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] department of business, economic development, and tourism shall submit to the legislature a final report on the operation of the clean Hawaii center.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 6, 1996.)