

ACT 122

H.B. NO. 852

A Bill for an Act Relating to the Hawaii State Energy Office.

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

PART I

SECTION 1. The legislature finds that energy composes approximately one-eighth of Hawaii's overall economy. Electric bills for public facilities and public transportation services exceed \$400,000,000 annually. Management and direction of the energy sector of the state economy is becoming an increasingly complex and critically important job. According to Hawaii's utilities, successfully achieving one hundred per cent renewable electricity by 2045 is expected to save nearly \$6,000,000,000. Additionally, electric vehicles are already cheaper to operate than traditional gas-powered vehicles. Transitioning to clean transportation will save residents billions of dollars. Climate change is expected to cost the State at least \$19,000,000,000 in losses from sea level rise alone, making the switch to renewable energy and the ultimate reduction of atmospheric carbon a priority. The State must also handle the need for island resiliency; rapid increase and economic viability of renewable and distributed energy resources; the digitization, democratization, and inter-connectivity of infrastructure; and the transition to clean transportation systems. These complex realities reveal the need for a state agency responsible for assisting the transition to a clean energy economy to meet Hawaii's climate and cost of living goals.

The legislature further finds that efforts taken by universities, public schools, executive departments, and other government entities have already begun to save taxpayers money by reducing the government's electricity costs. However, those efforts lack statewide coordination, preventing economies of scale to maximize savings. While some departments have made substantial progress, others have yet to commence meaningful activities. Tasking a single agency to plan for energy savings measures across all public facilities and assist government entities already working to reduce energy costs is a necessary step to maximize taxpayer savings.

The legislature further finds that although the state energy office is tasked with the responsibility of overseeing one-eighth of Hawaii's economy, which impacts every business and household, the state energy office lacks an enabling statute, a mission, formal guidance, and reporting accountability. Additionally, appointment of the head of the state energy office, the Hawaii state energy office administrator, is exempt from the senate confirmation process required for the majority of other agency heads.

The legislature's intent is to establish in statute an energy agency with a clear mission, established guidance, transparent reporting, and accountable leadership that will assist both the public and private sectors in achieving the State's energy goals. More specifically, the purpose of this Act is to:

- (1) Establish the Hawaii state energy office as an attached agency to the department of business, economic development, and tourism and a chief energy officer position within the office;
- (2) Transfer the duties and responsibilities of the energy resources coordinator, which are currently assigned to the director of business, economic development, and tourism, along with the functions of the renewable energy facilitator, functions of the existing state energy office, and all employees of the state energy office to the Hawaii state energy office and chief energy officer;
- (3) Amend the allowable uses of the energy security special fund for purposes of the office; and
- (4) Appropriate funds for operating expenses and establish position ceilings for the office.

PART II

SECTION 2. Chapter 196, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . HAWAII STATE ENERGY OFFICE

§196-A Hawaii state energy office; established. (a) There is established the Hawaii state energy office, which shall be a public body politic and an instrumentality and agency of the State. The office shall be placed within the department of business, economic development, and tourism for administrative purposes, pursuant to section 26-35. The purpose of the Hawaii state energy office shall be to promote energy efficiency, renewable energy, and clean transportation to help achieve a resilient clean energy economy.

(b) The Hawaii state energy office shall:

- (1) Provide analysis and planning to actively develop and inform policies to achieve energy efficiency, renewable energy, energy resiliency, and clean transportation goals with the legislature, public utilities commission, state agencies, and other relevant stakeholders;
- (2) Lead efforts to incorporate energy efficiency, renewable energy, energy resiliency, and clean transportation to reduce costs and achieve clean energy goals across all public facilities;
- (3) Provide renewable energy, energy efficiency, energy resiliency, and clean transportation project deployment facilitation to assist private sector project completion when aligned with state energy goals; and
- (4) Engage the private sector to help lead efforts to achieve renewable energy and clean transportation goals through the Hawaii clean energy initiative.

(c) The Hawaii state energy office shall be the State’s primary government entity for supporting the clean energy initiative.

(d) No later than twenty days prior to the convening of each regular session, the Hawaii state energy office shall submit a report to the legislature that includes:

- (1) A description of the activities of the Hawaii state energy office in response to the directives established pursuant to subsection (b) and section 196-B(d), along with progress in meeting any of the Hawaii state energy office goals established in or pursuant to this part;
- (2) Progress by the State in meeting its energy efficiency, renewable energy, and clean transportation goals; and
- (3) Proposed legislation, if any.

§196-B Chief energy officer of the Hawaii state energy office; duties.

(a) The Hawaii state energy office shall be led by the chief energy officer, who shall be nominated and, by and with the advice and consent of the senate, appointed by the governor; provided that the term of the chief energy officer shall be coterminous with the term of the governor.

(b) The chief energy officer shall have:

- (1) Experience, knowledge, and expertise in policy, programs, or services related to energy efficiency, renewable energy, clean transportation, and energy resiliency related activities and development; and
- (2) Experience in a supervisory or administrative capacity.

(c) The chief energy officer shall hire staff necessary to carry out the purposes of this part. The chief energy officer and employees of the Hawaii state energy office shall be exempt from chapter 76 and shall not be considered civil service employees but shall be entitled to any employee benefit plan normally inuring to civil service employees.

(d) Subject to the approval of the governor, the chief energy officer shall:

- (1) Formulate, analyze, recommend, and implement specific policies, strategies, and plans, in coordination with public and private sector stakeholders, to cost-effectively and equitably achieve the State's energy goals;
- (2) Identify, track, and report key performance measures and milestones related to the State's energy and decarbonization goals;
- (3) Provide technical assistance to state and county agencies to assess and implement projects and programs related to energy conservation and efficiency, renewable energy, clean transportation, energy resiliency, and related measures;
- (4) Coordinate the State's energy programs with those of the federal government, other territory and state governments, the political subdivisions of the State, departments of the State, and governments of nations with interest in common energy resources;
- (5) Identify market gaps and innovation opportunities, collaborate with stakeholders, and facilitate public-private partnerships to develop projects, programs, and tools to encourage private and public exploration, research, and development of energy resources, distributed energy resources, and data analytics that will support the State's energy and decarbonization goals;
- (6) Create and review proposed state actions that may have a significant effect on the State's energy and decarbonization goals, report to the governor their effect on the energy program, and perform other services as may be required;
- (7) Evaluate, recommend, and participate in the development of incentives and programs that encourage the development of energy efficiency, renewable energy, energy resiliency, distributed energy resources, and clean transportation resources;
- (8) Assess and evaluate the effectiveness and continued necessity of existing energy related incentives, tax credits, and programs, and provide recommendations and proposed changes;
- (9) Develop and maintain a comprehensive and systematic quantitative and qualitative capacity to analyze the status of energy resources, systems, and markets, both in-state and in other states and countries, particularly in relation to the State's economy, and to recommend, develop proposals for, and assess the effectiveness of policy and regulatory decisions, and energy emergency planning;

- (10) Develop and recommend programs for, and assist public agencies in the implementation of, energy assurance and energy resilience;
- (11) Support the development, evaluation, revision, and adoption of energy-related codes and standards that advance the State's energy goals;
- (12) Act as the State's energy data clearinghouse by identifying, collecting, compiling, analyzing, publishing, and where possible, monetizing energy and clean transportation data and analyses;
- (13) Advocate for the State's energy and decarbonization goals at relevant venues and departments, including but not limited to the public utilities commission, legislature, and division of consumer advocacy, to ensure that state energy policies and regulations align with the state strategic goals and are data-driven;
- (14) Support economic development and innovation initiatives related to and resulting from the State's renewable energy and distributed energy resources experience, capabilities, and data analyses;
- (15) Facilitate the efficient, expedited permitting of energy efficiency, renewable energy, clean transportation, and energy resiliency projects by:
 - (A) Coordinating and aligning state and county departments and agencies to support, expedite, and remove barriers to deployment of energy initiatives and projects; and
 - (B) Identify and evaluate conflicting or onerous policies and rules that unreasonably impede project development and deployment and propose regulatory, legislative, administrative, or other solutions to applicable stakeholders;
- (16) Identify and recommend policies to align utility goals with those of ratepayers, including evaluating utility models that best support state energy goals;
- (17) Prepare and submit an annual report and other reports as may be requested to the governor and to the legislature on the implementation of this part;
- (18) Contract for services when required for the implementation of this part; and
- (19) Adopt rules, pursuant to chapter 91, for the administration of this part."

SECTION 3. Sections 125C-22, 125C-23, 125C-31, 141-9, 196-5, 196-6.5, 196-11, 196-30, 196-63, 206M-23, 286-172, 304A-1892, and 304A-1894.1, Hawaii Revised Statutes, are amended by substituting the term "chief energy officer of the Hawaii state energy office" wherever the term "state energy resources coordinator", "energy resources coordinator", "coordinator", or "energy program administrator of the department" appears, as the context requires.

SECTION 4. Section 196-2, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read: "Distributed energy resources" means a resource sited close to customers that:

- (1) Can provide all or some of the customers' immediate electric and power needs;
- (2) Can be used by the system to reduce demand or provide supply to satisfy the energy, capacity, or ancillary service needs of the distribution grid; and

(3) Is connected to the distribution system and close to load, if the resource provides electricity or thermal energy.
“Distributed energy resources” includes but is not limited to solar photovoltaic and thermal, wind, combined heat and power, electrical and thermal energy storage, demand response technologies, alternative energy vehicles and related infrastructure, microgrids, energy efficiency, and advanced inverters.”

2. By amending the definition of “energy resources” to read:
 ““Energy resources” means fuel, and also includes all electrical or thermal energy produced by combustion of any fuel, or generated [øf], produced, or stored using wind, the sun, geothermal heat, ocean water, falling water, currents, waves, or any other source.”

3. By deleting the definition of “coordinator”.
 [““Coordinator” means the energy resources coordinator.”]

SECTION 5. Section 201-12.8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Subject to legislative appropriation, moneys from the fund may be expended by the [~~department of business, economic development, and tourism~~] Hawaii state energy office for the following purposes and used for no other purposes, except for those set forth in this section:

- (1) To support the Hawaii clean energy initiative program[, including its energy division, including funding staff positions within the division,] and projects that [ensure] promote and advance dependable[, efficient, and economical energy, promote] and affordable energy, renewable energy, energy efficiency, energy self-sufficiency, and [provide] greater energy security and resiliency for the State[;] and public facilities;
- [(2) ~~To fund the renewable energy facilitator pursuant to section 201-12.5 and any other positions necessary for the purposes of paragraph (1) as determined by the legislature; and~~]
- (3) (2) To fund, to the extent possible, the [greenhouse gas emissions reduction task force, climate change task force, grants-in-aid to the economic development boards of each county, and grants-in-aid to economic development agencies of each county to meet the stated objectives of the Hawaii clean energy initiative program.] climate change mitigation and adaptation commission and the greenhouse gas sequestration task force;
- (3) To support achieving the zero emissions clean economy target set forth in section 225P-5;
- (4) To fund the building energy efficiency revolving loan fund established in section 201-20;
- (5) To fund projects and incentives to promote the adoption of clean transportation technologies, develop clean vehicle charging infrastructure, and upgrade infrastructure to support the development of clean vehicle charging infrastructure; and
- (6) To fund, to the extent possible, the duties of the state building code council in section 107-24, as they relate to the development of energy conservation codes.”

SECTION 6. Section 304A-1891, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The director of the institute shall coordinate the institute’s work with the [~~energy resources coordinator~~] chief energy officer of the Hawaii state

energy office in carrying out duties pursuant to section [196-4] 196-B in the area of research and development of renewable energy sources.”

SECTION 7. Section 196-3, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 196-4, Hawaii Revised Statutes, is repealed.

SECTION 9. Section 201-12.5, Hawaii Revised Statutes, is repealed.

PART III

SECTION 10. Unless otherwise clear from the context, as used in this Act:

“Expending agency” means the executive department, independent commission, bureau, office, board, or other establishment of the state government (other than the legislature, Office of Hawaiian Affairs, and judiciary), the political subdivisions of the State, or any quasi-public institution supported in whole or in part by state funds, which is authorized to expend specified appropriations made by this Act.

Abbreviations, where used to denote the expending agency, shall mean the following:

BED Department of Business, Economic Development, and Tourism

“Means of financing” or “MOF” means the source from which funds are appropriated or authorized to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meanings:

A general funds

T trust funds

“Position ceiling” means the maximum number of permanent and temporary full-time equivalent positions authorized for a particular program during a specified period or periods, as denoted by an asterisk for permanent full-time equivalent positions and a pound sign for temporary full-time equivalent positions.

“Program ID” means the unique identifier for the specific program and consists of the abbreviation for the organization responsible for carrying out the program followed by the organization number for the program.

SECTION 11. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized, as the case may be, from the means of financing specified to the expending agencies designated for the fiscal biennium beginning July 1, 2019, and ending June 30, 2021. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the position ceilings indicated for each fiscal year, except as provided elsewhere in this Act or as provided by general law.

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL YEAR	FISCAL YEAR
				M O 2019-2020	M O 2020-2021
1.	BED120 - HAWAII STATE ENERGY OFFICE			5.00 *	5.00 *
				22.00 #	22.00 #
	OPERATING		BED	2,818,077 A	2,818,077 A
			BED	240,000 T	240,000 T

PART IV

SECTION 12. Section 243-3.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other taxes provided by law, subject to the exemptions set forth in section 243-7, there is hereby imposed a state environmental response, energy, and food security tax on each barrel or fractional part of a barrel of petroleum product sold by a distributor to any retail dealer or end user of petroleum product, other than a refiner. The tax shall be \$1.05 on each barrel or fractional part of a barrel of petroleum product that is not aviation fuel; provided that of the tax collected pursuant to this subsection:

- (1) 5 cents of the tax on each barrel shall be deposited into the environmental response revolving fund established under section 128D-2;
- (2) ~~[45]~~ 5 cents of the tax on each barrel shall be deposited into the energy security special fund established under section 201-12.8;
- (3) 10 cents of the tax on each barrel shall be deposited into the energy systems development special fund established under section 304A-2169.1; and
- (4) 15 cents of the tax on each barrel shall be deposited into the agricultural development and food security special fund established under section 141-10.

The tax imposed by this subsection shall be paid by the distributor of the petroleum product.”

PART V

SECTION 13. There is appropriated out of the energy security special fund the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2019-2020 for the purposes of conducting a study of carbon pricing, including whether and how a carbon pricing policy shall be implemented in Hawaii.

The sum appropriated shall be expended by the Hawaii state energy office for the purposes of this Act.

PART VI

SECTION 14. Provided that, notwithstanding any provision contained in the General Appropriations Act of 2019 that appropriates funds and establishes position ceilings, the positions authorized in section 11 shall be in addition to the positions authorized for that program under the General Appropriations Act of 2019; provided further that any incumbent employee shall retain the employee’s:

- (1) Civil service status, whether permanent or temporary; and
- (2) Salary, seniority (except as may be prescribed by applicable collective bargaining agreement), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws;

provided further that the positions as described in section 76-16(b)(17), Hawaii Revised Statutes, shall continue to be exempt from the provisions of chapter 76, Hawaii Revised Statutes.

SECTION 15. Notwithstanding any law to the contrary, provided that the funds appropriated in this Act may be transferred with the approval of the governor to the General Appropriations Act of 2019 (House Bill No. 2, H.D. 1, S.D. 1, C.D. 1),¹ for program execution and expenditure.

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SECTION 16. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 17. Statutory material to be repealed is bracketed and stricken.² New statutory material is underscored.

SECTION 18. This Act shall take effect on July 1, 2019.

(Approved June 21, 2019.)

Notes

1. Act 5.
2. Edited pursuant to HRS §23G-16.5.