

ACT 234

H.B. NO. 226

A Bill for an Act Relating to Greenhouse Gas Emissions.

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

SECTION 1. (a) The legislature finds that the earth's atmosphere is now warming at the fastest rate in recorded history, a trend that is projected to cause extensive damage to forests, marine ecosystems, and agriculture. Human communities are also threatened by climate change as seas rise, storms become more intense, and episodes of drought and flooding increase. The scientific evidence is now

compelling that recent climate change is caused at least in part by human activities, especially the burning of fossil fuels, which has driven atmospheric carbon dioxide concentrations to their highest levels in four hundred twenty thousand years.

The legislature further finds that climate change poses a serious threat to the economic well-being, public health, natural resources, and the environment of Hawaii. The potential adverse effects of global warming include a rise in sea levels resulting in the displacement of businesses and residences and the inundation of Hawaii's fresh-water aquifers, damage to marine ecosystems and the natural environment, extended drought and loss of soil moisture, an increase in the spread of infectious diseases, and an increase in the severity of storms and extreme weather events.

On February 2, 2007, the Intergovernmental Panel on Climate Change, a body established by the United Nations, released its fourth assessment of the predicted impacts of global climate change. The panel predicted temperature rises of up to eleven and a half degrees fahrenheit by 2100 and a sea level rise of up to twenty-three inches, with an additional 7.8 inches possible if current melting of the ice sheets in Greenland and Antarctica continues.

Climate change will have detrimental effects on some of Hawaii's largest industries, including tourism, agriculture, recreational, commercial fishing, and forestry. It will also increase the strain on electricity supplies necessary to meet the demand for air conditioning during the hottest times of the year.

The State has long been a leader in environmental stewardship and is endeavoring to lead the way in alternative renewable energy development and use. It is the intent of the legislature that an air pollution reduction program will continue the State's tradition of environmental leadership by placing Hawaii among the nation's leaders in efforts to effect a climate change policy. By reducing emissions in Hawaii, this framework of action will serve as an example to other states, the federal government, and other countries to protect our fragile global environment. By investigating and pioneering technologies that would best meet the unique needs of our island State in achieving a 2020 statewide framework of action, Hawaii will also position its economy, technology centers, financial institutions, and businesses to benefit from national and international efforts to meet this important policy. Therefore, the legislature has outlined a plan of action of first:

- (1) Declaring a policy, updating an existing statewide inventory of emission; and then
 - (2) Establishing a regulatory scenario based on an analysis of approaches developed through the work plan of a task force.
- (b) Accordingly, the purpose of this Act is to:
- (1) Reduce, by January 1, 2020, greenhouse gas emissions in the State to levels at or below the best estimations and updates of the inventory of greenhouse gas emissions estimates for 1990; and
 - (2) Establish a greenhouse gas emissions reduction task force to prepare a work plan and regulatory scheme for implementing the maximum practically and technically feasible and cost-effective reductions in greenhouse gas emissions from sources or categories of sources of greenhouse gases to achieve the statewide greenhouse gas emissions limits by 2020.

SECTION 2. Declaration of policy. By January 1, 2020, the State of Hawaii shall reduce statewide greenhouse gas emissions to levels at or below the best estimations and updates of the inventory of greenhouse gas emissions estimates for 1990.

SECTION 3. By December 31, 2008, the department of business, economic development, and tourism and the department of health shall complete an updated

inventory of emission sources or categories of sources from the past report prepared by the department of business, economic development, and tourism and the department of health, entitled "Inventory of Hawaii Greenhouse Gas Emissions Estimates for 1990", dated July 1997; provided that at least one public hearing shall be held prior to the completion of the updated inventory.

SECTION 4. Greenhouse gas emissions reduction task force. There is established the greenhouse gas emissions reduction task force within the department of business, economic development, and tourism for administrative purposes only. The task force shall be comprised of the following:

- (1) Two members appointed by the president of the senate from affected business sectors;
- (2) Two members appointed by the speaker of the house of representatives from affected business sectors;
- (3) The deputy director of the department of health's environmental health administration or the deputy director's designee, who shall co-chair the task force;
- (4) The director of business, economic development, and tourism or the director's designee, who shall co-chair the task force;
- (5) Two members from the University of Hawaii at Manoa climate change commission, selected by members of the Commission;
- (6) A member from an environmental organization appointed by the speaker of the house of representatives; and
- (7) A member from an environmental organization appointed by the president of the senate.

For the purposes of this section "affected business sector" refers to the following business sectors: electrical utilities, refinery operations, ground transportation industry, or maritime industry.

SECTION 5. Objective of the task force. (a) Before December 1, 2009, the greenhouse gas emission reduction task force shall prepare a work plan and regulatory scheme for implementing the maximum practically and technically feasible and cost-effective reductions in greenhouse gas emissions from sources or categories of sources of greenhouse gases to achieve the statewide greenhouse gas emissions limit as adopted in section 2 of this Act. For the purposes of this Act, "cost-effective" is defined as being the cost per unit of reduction.

(b) Each member of the task force is encouraged to commit as much time, expertise, and information as is available to the individual member.

(c) Confidential information provided to the task force that is exempt from public disclosure under section 92F-13(4), Hawaii Revised Statutes, shall be held in confidence by the task force or aggregated to the extent necessary to ensure confidentiality as required by chapter 92F, Hawaii Revised Statutes.

SECTION 6. Work plan. The work plan shall include but is not limited to the following objectives:

- (1) Consultation with all state agencies having jurisdiction over sources of greenhouse gases, including the public utilities commission, on all elements of its plan that pertain to energy-related matters, including but not limited to:
 - (A) Electrical generation;
 - (B) The provision of reliable and affordable electrical service;
 - (C) Petroleum refining; and
 - (D) Statewide fuel supplies,

to ensure the greenhouse gas emissions reduction activities to be adopted and implemented are complementary, minimize duplication, and can be implemented in an efficient and cost-effective manner.

- (2) Identification and recommendations on:
 - (A) Direct emission reduction measures;
 - (B) Alternative compliance mechanisms;
 - (C) Market-based compliance mechanisms; and
 - (D) Potential monetary and non-monetary incentives,
 for sources and categories of sources that are necessary or desirable to facilitate the achievement of the maximum feasible and cost-effective reductions of greenhouse gas emissions by 2020;
- (3) Consideration of relevant information pertaining to greenhouse gas emissions reduction programs to ascertain progressive efforts from other locations to postulate control mechanisms most applicable to Hawaii. The task force may consult with other states, the federal government, nongovernmental organizations, and, if applicable, other nations to identify effective strategies and methods to reduce greenhouse gases, manage greenhouse gas control programs, and to facilitate the development of integrated and cost-effective regional, national, and international greenhouse gas emission reduction programs;
- (4) Investigation and development of analytical tools, economic models, or other scientific methods to evaluate the total potential costs and total potential economic and non-economic benefits of the plan for reducing greenhouse gases to the State's economy, environment, and public health;
- (5) Consideration of the relative contribution of each source or source category to statewide greenhouse gas emissions and the potential for adverse effects on small businesses, and recommendation of a minimum threshold of greenhouse gas emissions below which emission reductions requirements shall not apply;
- (6) Identification of opportunities for emission reductions measures from all verifiable and enforceable voluntary actions, including but not limited to carbon sequestration projects and best management practices;
- (7) Examination and use of market-based compliance mechanisms to achieve emission reductions and:
 - (A) Consideration of the potential for direct, indirect, and cumulative emission impacts from these mechanisms, including localized impacts in communities that are already adversely impacted by air pollution;
 - (B) Design of any market-based compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria air pollutants identified by the Environmental Protection Agency; and
 - (C) Recommendations to maximize additional environmental and economic benefits for Hawaii, as appropriate;
- (8) Suggested rules governing how market-based compliance mechanisms may be used by regulated entities subject to greenhouse gas emission limits and mandatory emission reporting requirements to achieve compliance with their greenhouse gas emissions limits;
- (9) Suggested regulation to control mobile sources of greenhouse gas emissions to achieve reductions in statewide greenhouse gas emissions;
- (10) Recommendations to minimize "leakage" or a reduction in emissions of greenhouse gases within the State that is offset by an increase in emissions of greenhouse gases outside the State;

- (11) Review and recommendations of a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to this Act;
- (12) Implementation of a series of public workshops to give interested parties an opportunity to comment on the work plan. The task force shall conduct at least one of these workshops in each county; and
- (13) Review and revision of the work plan to achieve the maximum technologically feasible and cost-effective reductions of greenhouse gas emissions at least once every five years.

SECTION 7. Not less than twenty days prior to the convening of the regular session of 2010 and every fifth regular session following the regular session of 2010, the greenhouse gas emission reduction task force shall submit to the legislature a copy of its work plan and proposed regulatory scheme, along with any proposed legislation, and any five year update to the work plan and proposed regulatory scheme, for achieving the maximum practically and technically feasible and cost-effective reductions in greenhouse gas emissions from sources or categories of sources of greenhouse gases.

SECTION 8. Chapter 342B, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . GREENHOUSE GAS EMISSIONS

§342B-A Statewide greenhouse gas emissions limit, adoption. A statewide greenhouse gas emissions limit to be achieved by 2020 is hereby established that is equal to or below the level of the statewide greenhouse gas emissions in 1990, as determined by section 3 of Act , Session Laws of Hawaii 2007; provided that for the purposes of this Act greenhouse gas emissions from airplanes shall not be included.

§342B-B Greenhouse gas emissions limits; rules. (a) Before December 31, 2011, the director shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes:

- (1) Establishing greenhouse gas emission limits applicable to sources or categories of sources, to be achieved by January 1, 2020, and establishing emission reduction measures to achieve the maximum practically and technically feasible and cost-effective reductions in greenhouse gas emissions in furtherance of achieving the statewide greenhouse gas emissions limit; and
- (2) Requiring the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this part,

to become operative beginning on January 1, 2012.

(b) The director, to the extent feasible to achieve the statewide greenhouse gas emissions limit, shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, and this section based upon the recommendations and findings of the work plan created pursuant to section 6 of Act , Session Laws of Hawaii 2007.

(c) Any rule adopted by the director pursuant to this section shall ensure all of the following:

- (1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the director; and
- (2) If applicable, the greenhouse gas emission reduction occurs over the same time period and is equivalent in amount to any direct emission reduction required pursuant to this part.

(d) The director shall periodically review and update state emission reporting requirements and endeavor to make the requirements consistent with the require-

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ments of international, federal, and other states' greenhouse gas emission reporting programs, as necessary.

(e) After January 1, 2012, the director may revise rules adopted pursuant to this section and adopt additional rules to further this part.

§342B-C Schedule of fees; establishment. The director may adopt rules pursuant to chapter 91, Hawaii Revised Statutes, that specify a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to this part. The revenues collected pursuant to this section shall be deposited into the clean air special fund established under section 342B-32, Hawaii Revised Statutes, to be used for the purposes thereof.''

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2007-2008 and the same sum or so much thereof as may be necessary for fiscal year 2008-2009 for carrying out the purposes of this Act, including the hiring of necessary staff.

The sums appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 10. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 11. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 12. In codifying the new sections added by section 8 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 13. In printing this Act, the revisor of statutes shall substitute in sections 342B-A, 342B-B, and 342B-C, Hawaii Revised Statutes, of section 8, the corresponding act number of this Act.

SECTION 14. This Act shall take effect on July 1, 2007.

(Approved June 30, 2007.)