

GOV MSG. NO. 87/

EXECUTIVE CHAMBERS

HONOLULU

GOVERNOR

July 8, 2008

The Honorable Colleen Hanabusa, President and Members of the Senate Twenty-Fourth State Legislature State Capitol, Room 409 Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB1793 SD1 HD1 CD1, without my approval, and with the statement of objections relating to the measure.

SB1793 SD1 HD1 CD1

A BILL FOR AN ACT RELATING TO THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY.

Sincerely,

7 Il LINDA LINGE

EXECUTIVE CHAMBERS

HONOLULU

July 8, 2008

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1793

Honorable Members Twenty-Fourth Legislature State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1793, entitled "A Bill for an Act Relating to the Natural Energy Laboratory of Hawaii Authority."

The purposes of this bill are to add two members to the Board of Directors of the Natural Energy Laboratory of Hawaii Authority (NELHA), who must be chosen from among the tenants holding leases on property within the NELHA research and technology park, and to exempt NELHA from certain administrative and oversight requirements that apply to boards and commissions. More specifically, the bill would exempt NELHA from certain provisions of section 26-35, Hawaii Revised Statutes, to enable NELHA to directly communicate with the Governor or the Legislature and to make all decisions regarding NELHA employees and the purchase of supplies, equipment, and furniture without the approval of the Director of Business, Economic Development and Tourism (DBEDT).

Agencies, such as NELHA, enjoy a certain degree of autonomy in their mission and functions from the departments to which they are attached. Although the level of autonomy is not defined precisely in the law, my Administration has honored and STATEMENT OF OBJECTIONS SENATE BILL NO. 1793 Page 2

encouraged agencies to carry out their goals and objectives in collaboration with their department.

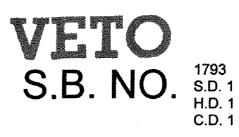
This bill is objectionable because it eliminates the partnership between DBEDT and NELHA in critical areas of NELHA operations, including the hiring and firing of personnel and the procurement of supplies and equipment. I strongly believe that all attached agencies must have Executive Branch oversight in these areas to ensure the proper use and expenditure of public funds. Furthermore, review and approval by a department head in the administration of an attached agency is critical to ensuring that consistent policies are being implemented and that applicable rules and other provisions are being followed. Departmental review could preclude the need for additional staff that must be hired by the attached agency.

Finally, this bill is objectionable because it suggests that NELHA and other attached agencies do not have the ability to communicate with the Legislature or the Executive Branch. This is not the case; NELHA and several other boards and commissions testified before the Legislature this past year and are always welcome to meet with me or my staff.

For the foregoing reasons, I am returning Senate Bill No. 1793 without my approval.

Respectfully,

LINDA LINGLE Governor of Hawaii



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A BILL FOR AN ACT

RELATING TO THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1	SECI	TION 1. Chapter 227D, Hawaii Revised Statutes, is
2	amended b	by adding a new section to be appropriately designated
3	and to read as follows:	
4	" <u>§22</u>	7D- Exemptions. (a) The authority shall be exempt
5	from sect	ion 26-35(a)(1), (4), and (5).
6	(b)	The authority shall:
7	(1)	Communicate directly with the governor and the
8		legislature;
9	(2)	Make all decisions regarding employment, appointment,
10		promotion, transfer, demotion, discharge, and job
11		descriptions of all officers and employees of or under
12		the jurisdiction of the authority without the approval
13		of the director of business, economic development, and
14		tourism; provided that the authority shall follow all
15		applicable laws; and

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1	(3) Purchase all supplies, equipment, and furniture		
2	without the approval of the director of business,		
3	economic development, and tourism.		
4	(c) This section shall not apply to any of the authority's		
5	powers or actions related to the Center of Excellence for		
6	Research in Ocean Sciences."		
7	SECTION 2. Section 227D-2, Hawaii Revised Statutes, is		
8	amended by amending subsection (b) to read as follows:		
9	"(b) The governing body of the authority shall consist of		
10	a board of directors having [eleven] thirteen voting members.		
11	[Three] <u>Five</u> members [from the general public] shall be		
12	appointed by the governor for staggered terms pursuant to		
13	section 26-34[τ]. Two of these members shall be selected by the		
14	governor from among the tenants holding leases on property		
15	within the natural energy laboratory of Hawaii authority		
16	research and technology park; provided that tenant members shall		
17	be recused from voting on issues relating to water rates or		
18	lease rents. The remaining three shall be selected from the		
19	general public, except that one [of these members] shall be a		
20	resident of the county of Hawaii[. The members shall be		
21	selected], on the basis of their knowledge, interest, and proven		

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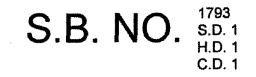
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1 expertise in $[\tau]$ but not limited to $[\tau]$ one or more of the 2 following fields: finance, commerce and trade, corporate 3 management, marketing, economics, engineering, energy 4 management, real estate development, property management, 5 aquaculture, and ocean science. The chairperson and secretary 6 of the research advisory committee shall serve on the board. 7 The director of business, economic development, and tourism, the 8 chairperson of the board of land and natural resources, the 9 president of the University of Hawaii, the mayor of the county 10 of Hawaii, an appointed member from the board of the high 11 technology development corporation, and an appointed member from 12 the board of the Hawaii strategic development corporation, or 13 their designated representatives, shall serve as ex officio, 14 voting members of the board. The director of business, economic 15 development, and tourism shall serve as the chairperson until 16 such time as a chairperson is elected by the board from the 17 membership. The board shall elect other officers as it deems 18 necessary.

19 On issues relating to lease rents or water rates, an
20 affirmative vote of seven members shall be required to decide
21 the issue."

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SECTION 3. Statutory material to be repealed is bracketed
 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval;
4 provided that section 1 shall be repealed on July 1, 2013.