



GOV. MSG. NO. 871

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
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,


LINDA LINGLE

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

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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

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 SECTION 1. Chapter 227D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§227D- Exemptions. (a) The authority shall be exempt
5 from section 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



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~~] Five members [~~from the general public~~] shall be
12 appointed by the governor for staggered terms pursuant to
13 section 26-34[~~7~~]. 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



1 expertise in[7] but not limited to[7] 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."



1 SECTION 3. Statutory material to be repealed is bracketed
2 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.

