

Resolution

No. 24-121

APPROVING FOR INCLUSION IN THE 2025
MAUI COUNTY COUNCIL LEGISLATIVE
PACKAGE A STATE BILL ON STATEWIDE
COMPOSTING

WHEREAS, food waste is a one of the main components that enters the waste stream and accounts for a large percentage of all materials sent to landfills; and

WHEREAS, approximately half of organic materials disposed of in incinerators and landfills can be diverted for bioconversion, including composting; and

WHEREAS, landfills throughout Hawai'i are nearing capacity, facing closure and re-siting, resulting hundreds of millions of dollars in financial burdens for each county and creating understandable community resentment; and

WHEREAS, recycling organics into compost has multiple environmental benefits, including improving soil health; increasing crop yields; increasing drought resistance; reducing the need for supplemental water, fertilizers, and pesticides; decreasing methane, a powerful greenhouse-gas emission responsible for climate change; and reducing the risk of invasive species introduction to neighboring islands through importation of contaminated compost; and

WHEREAS, increasing diversion of food waste from landfills and increasing composting promotes sustainability, resilience, and fiscal goals for the State and counties; and

WHEREAS, House Bill 2407, HD1, SD1 (2020) (the 2020 Bill), was designed to encourage food-waste diversion and creation of multi-scale composting operations by:

1) requiring the Department of Health to adopt or amend rules to establish a classification system for regulating compost facilities and operations;

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2) requiring the Department of Health to examine, when creating the classification system, if food waste of any amount should qualify a composter of any size to become a solid-waste-management facility;

3) allowing composting and co-composting in the State Agricultural District, including on lands with Class A or B soils; and

4) appropriating money to create a Program Specialist position focused on administrative rulemaking in the Solid and Hazardous Waste Branch; and

WHEREAS, the 2020 Bill passed three readings in the House and two readings in the Senate, with amendments based on testimony by the Department of Health, and received overwhelming testimonial support, but did not receive final approval; and

WHEREAS, the attached proposed bill, based on the 2020 Bill, will lead to increasing food-waste recycling into compost and attaining sustainability, resilience, and fiscal goals; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill attached as Exhibit "A," on statewide composting, is approved for inclusion in the 2025 Maui County Council Legislative Package; and
2. That certified copies of the Resolution be transmitted to the Mayor.

INTRODUCED BY:

Tamara A.M. Paltin

TAMARA PALTIN

A BILL FOR AN ACT

RELATING TO STATEWIDE COMPOSTING.

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

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PART I

SECTION 1. The legislature finds that according to the United States Environmental Protection Agency and the United States Department of Agriculture, food waste is the second largest component that enters a waste stream and accounts for twenty-five percent of all materials sent to landfills. Nearly fifty percent of organic materials disposed of in incinerators and landfills can be diverted for bioconversion, including composting. Landfills across Hawaii are rapidly reaching capacity and facing the burden of closure and re-siting, a process that will cost each county hundreds of millions of dollars and create community resentment. Recycling organics, including food waste, into compost has environmental benefits, such as improving soil health, increasing drought resistance, and reducing the need for supplemental water, fertilizers, and pesticides, while also increasing crop yields and reducing the risk of invasive species introduction to neighboring islands through importation of contaminated compost. Furthermore,

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1 applying compost and organic matter to soil sequesters carbon
2 from the atmosphere, forming the largest land-based carbon sink,
3 and mitigates climate change by effectively reducing greenhouse
4 gas emissions. The legislature believes that food waste
5 diversion and the creation of multi-scale composting operations
6 across the State will greatly reduce the burdens on landfills,
7 lower county waste management costs, and move the State closer
8 to achieving its sustainability and resiliency goals, which
9 include:

10 (1) The Aloha+ Challenge, which is a statewide commitment
11 to realize the United Nations' Sustainable Development Goals
12 that sets a goal of seventy percent waste reduction before
13 disposal and doubling of local food production by 2030;

14
15 (2) The Hawaii 2050 sustainability plan, which also sets
16 as a mandate for the State to achieve full sustainability and
17 resilience through increased food production and dramatic waste
18 reduction via recycling and bioconversion strategies; and

19
20 (3) Increasing the generation of local compost to
21 sequester more carbon and mitigate climate change pursuant to
22 the strategy identified by the greenhouse gas sequestration task
23 force permanently established by Act 15, Session Laws of Hawaii
24 2018.

25
26 The legislature also finds that the regulation of co-
27 composting in the State is under the purview of the department
28 of health's solid and hazardous waste branch. Existing
29 regulations have not been updated in over twenty years, and
30 currently a single application applies to all co-composting

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1 operations regardless of size or scope. The current permitting
2 process is an onerous and unreasonable barrier to lawful
3 participation for small to midsize composting operations whose
4 operations present a much lower risk potential. Reform and
5 updating of the co-composting regulations and permitting process
6 will greatly increase the number of operators diverting organics
7 from landfills and incinerators, thereby aiding the State and
8 counties in reaching their sustainability, resilience, and
9 fiscal goals.

10 Accordingly, the purpose of this Act is to encourage the
11 production of compost by:

12 (1) Requiring the department of health to adopt or amend
13 rules to establish a classification system for composting
14 facilities or operations for the purposes of regulating them for
15 health purposes; and

16 (2) Allowing composting and co-composting in the
17 agricultural district, including on lands with class A or B
18 soils.

19 PART II

20 SECTION 2. The department of health shall adopt or amend
21 rules, pursuant to chapter 91, Hawaii Revised Statutes, to
22 establish a classification system for composting facilities or
23 operations for the purposes of regulating them for health
24 purposes, including but not limited to preventing pollution,
25 preventing the spread of disease and the creation of nuisances,
26 protecting public health and safety, conserving natural

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1 resources, and preserving and enhancing the beauty and quality
2 of the environment. The classification system and adopted or
3 amended rules shall encourage food waste composting where
4 possible and not require onerous regulations where unnecessary.
5 The classification system shall consider the climate and soil
6 benefits of food waste composting. The classification system
7 will weigh the climate risk of not composting with the perceived
8 health risks of compost facilities of various size classes and
9 types. These health risks will be evaluated based on the volume
10 of food waste inputs, the composting technology used, and the
11 size of the compost structure or pile. Only operations over a
12 determined size and volume of food waste inputs shall be
13 considered a municipal solid waste management facility.

14 SECTION 3. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$ _____ or so much
16 thereof as may be necessary for fiscal year 2025-2026 for a
17 full-time equivalent (1.0 FTE) program specialist position in
18 the solid and hazardous waste branch to focus on updating
19 administrative solid waste regulations.

20 The sum appropriated shall be expended by the department of
21 health for the purposes of this Act.

1 SECTION 4. Section 205-2, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) Agricultural districts shall include:

4 (1) Activities or uses as characterized by the cultivation
5 of crops, crops for bioenergy, orchards, forage, and
6 forestry;

7
8 (2) Farming activities or uses related to animal husbandry
9 and game and fish propagation;

10
11 (3) Aquaculture, which means the production of aquatic
12 plant and animal life within ponds and other bodies of
13 water;

14
15 (4) Wind-generated energy production for public, private,
16 and commercial use;

17
18 (5) Biofuel production, as described in section
19 205-4.5(a)(16), for public, private, and commercial
20 use;

21
22 (6) Solar energy facilities; provided that:

23
24 (A) This paragraph shall apply only to land with
25 soil classified by the land study bureau's
26 detailed land classification as overall
27 (master) productivity rating class B, C, D, or
28 E; and

29 (B) Solar energy facilities placed within land
30 with soil classified as overall productivity rating class B or C
31 shall not occupy more than ten per cent of the acreage of the

____.B. NO. _____

1 parcel, or twenty acres of land, whichever is lesser, unless a
2 special use permit is granted pursuant to section 205-6;

3 (7) Bona fide agricultural services and uses that support
4 the agricultural activities of the fee or leasehold owner of the
5 property and accessory to any of the above activities,
6 regardless of whether conducted on the same premises as the
7 agricultural activities to which they are accessory, including
8 farm dwellings as defined in section 205-4.5(a)(4), employee
9 housing, farm buildings, mills, storage facilities, processing
10 facilities, photovoltaic, biogas, and other small-scale renewable
11 energy systems producing energy solely for use in the
12 agricultural activities of the fee or leasehold owner of the
13 property, agricultural-energy facilities as defined in section
14 205-4.5(a)(17), vehicle and equipment storage areas, and
15 plantation community subdivisions as defined in section
16 205-4.5(a)(12);

17
18 (8) Wind machines and wind farms;

19
20 (9) Small-scale meteorological, air quality, noise, and
21 other scientific and environmental data collection and
22 monitoring facilities occupying less than one-half acre of land;
23 provided that these facilities shall not be used as or equipped
24 for use as living quarters or dwellings;

25
26 (10) Agricultural parks;

27
28 (11) Agricultural tourism conducted on a working farm, or
29 a farming operation as defined in section 165-2, for the
30 enjoyment, education, or involvement of visitors; provided that
31 the agricultural tourism activity is accessory and secondary to
32 the principal agricultural use and does not interfere with
33 surrounding farm operations; and provided further that this
34 paragraph shall apply only to a county that has adopted
35 ordinances regulating agricultural tourism under section 205-5;

36
37 (12) Agricultural tourism activities, including overnight
38 accommodations of twenty-one days or less, for any one stay
39 within a county; provided that this paragraph shall apply only
40 to a county that includes at least three islands and has adopted
41 ordinances regulating agricultural tourism activities pursuant

____.B. NO. _____

1 to section 205-5; provided further that the agricultural tourism
2 activities coexist with a bona fide agricultural activity. For
3 the purposes of this paragraph, "bona fide agricultural
4 activity" means a farming operation as defined in section 165-2;

5

6 (13) Open area recreational facilities;

7

8 (14) Geothermal resources exploration and geothermal
9 resources development, as defined under section 182-1;

10

11 (15) Agricultural-based commercial operations registered
12 in Hawaii, including:

13

14 (A) A roadside stand that is not an enclosed
15 structure, owned and operated by a producer for the display and
16 sale of agricultural products grown in Hawaii and value-added
17 products that were produced using agricultural products grown in
18 Hawaii;

19 (B) Retail activities in an enclosed structure
20 owned and operated by a producer for the display and sale of
21 agricultural products grown in Hawaii, value-added products that
22 were produced using agricultural products grown in Hawaii, logo
23 items related to the producer's agricultural operations, and
24 other food items;

25 (C) A retail food establishment owned and
26 operated by a producer and permitted under chapter 11-50, Hawaii
27 administrative rules, that prepares and serves food at retail
28 using products grown in Hawaii and value-added products that
29 were produced using agricultural products grown in Hawaii;

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1 (D) A farmers' market, which is an outdoor
2 market limited to producers selling agricultural products grown
3 in Hawaii and value-added products that were produced using
4 agricultural products grown in Hawaii; and

5 (E) A food hub, which is a facility that may
6 contain a commercial kitchen and provides for the storage,
7 processing, distribution, and sale of agricultural products
8 grown in Hawaii and value-added products that were produced using
9 agricultural products grown in Hawaii.

10 The owner of an agricultural-based commercial operation
11 shall certify, upon request of an officer or agent charged with
12 enforcement of this chapter under section 205-12, that the
13 agricultural products displayed or sold by the operation meet
14 the requirements of this paragraph; [~~and~~]

15
16 (16) Hydroelectric facilities as described in section
17 205-4.5(a)(23) [~~+~~]; and

18 (17) Composting and co-composting operations.

19 Agricultural districts shall not include golf courses and golf
20 driving ranges, except as provided in section 205-4.5(d).

21 Agricultural districts include areas that are not used for, or
22 that are not suited to, agricultural and ancillary activities by
23 reason of topography, soils, and other related characteristics."

24 SECTION 5. Section 205-4.5, Hawaii Revised Statutes, is
25 amended by amending subsection (a) to read as follows:

____.B. NO. _____

1 "(a) Within the agricultural district, all lands with soil
2 classified by the land study bureau's detailed land
3 classification as overall (master) productivity rating class A
4 or B and for solar energy facilities, class B or C, shall be
5 restricted to the following permitted uses:

6 (1) Cultivation of crops, including crops for bioenergy,
7 flowers, vegetables, foliage, fruits, forage, and
8 timber;

9
10 (2) Game and fish propagation;

11
12 (3) Raising of livestock, including poultry, bees, fish,
13 or other animal or aquatic life that are propagated
14 for economic or personal use;

15
16 (4) Farm dwellings, employee housing, farm buildings, or
17 activities or uses related to farming and animal husbandry.
18 "Farm dwelling", as used in this paragraph, means a single-
19 family dwelling located on and used in connection with a farm,
20 including clusters of single-family farm dwellings permitted
21 within agricultural parks developed by the State, or where
22 agricultural activity provides income to the family occupying
23 the dwelling;

24
25 (5) Public institutions and buildings that are necessary
26 for agricultural practices;

27
28 (6) Public and private open area types of recreational
29 uses, including day camps, picnic grounds, parks, and riding
30 stables, but not including dragstrips, airports, drive-in
31 theaters, golf courses, golf driving ranges, country clubs, and
32 overnight camps;

33
34 (7) Public, private, and quasi-public utility lines and
35 roadways, transformer stations, communications equipment
36 buildings, solid waste transfer stations, major water storage
37 tanks, and appurtenant small buildings such as booster pumping
38 stations, but not including offices or yards for equipment,

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1 material, vehicle storage, repair or maintenance, treatment
2 plants, corporation yards, or other similar structures;

3

4 (8) Retention, restoration, rehabilitation, or improvement
5 of buildings or sites of historic or scenic interest;

6

7 (9) Agricultural-based commercial operations as described
8 in section 205-2(d)(15);

9

10 (10) Buildings and uses, including mills, storage, and
11 processing facilities, maintenance facilities, photovoltaic,
12 biogas, and other small-scale renewable energy systems producing
13 energy solely for use in the agricultural activities of the fee
14 or leasehold owner of the property, and vehicle and equipment
15 storage areas that are normally considered directly accessory to
16 the above-mentioned uses and are permitted under section 205-
17 2(d);

18

19 (11) Agricultural parks;

20

21 (12) Plantation community subdivisions, which as used in
22 this chapter means an established subdivision or cluster of
23 employee housing, community buildings, and agricultural support
24 buildings on land currently or formerly owned, leased, or
25 operated by a sugar or pineapple plantation; provided that the
26 existing structures may be used or rehabilitated for use, and
27 new employee housing and agricultural support buildings may be
28 allowed on land within the subdivision as follows:

29

30 (A) The employee housing is occupied by

31 employees or former employees of the plantation who have a

32 property interest in the land;

33 (B) The employee housing units not owned by

34 their occupants shall be rented or leased at affordable rates

35 for agricultural workers; or

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1 (C) The agricultural support buildings shall be
2 rented or leased to agricultural business operators or
3 agricultural support services;

4

5 (13) Agricultural tourism conducted on a working farm, or
6 a farming operation as defined in section 165-2, for the
7 enjoyment, education, or involvement of visitors; provided that
8 the agricultural tourism activity is accessory and secondary to
9 the principal agricultural use and does not interfere with
10 surrounding farm operations; [~~and~~] provided further that this
11 paragraph shall apply only to a county that has adopted
12 ordinances regulating agricultural tourism under section 205-5;

13

14 (14) Agricultural tourism activities, including overnight
15 accommodations of twenty-one days or less, for any one stay
16 within a county; provided that this paragraph shall apply only
17 to a county that includes at least three islands and has adopted
18 ordinances regulating agricultural tourism activities pursuant
19 to section 205-5; provided further that the agricultural tourism
20 activities coexist with a bona fide agricultural activity. For
21 the purposes of this paragraph, "bona fide agricultural
22 activity" means a farming operation as defined in section 165-2;

23

24 (15) Wind energy facilities, including the appurtenances
25 associated with the production and transmission of wind
26 generated energy; provided that the wind energy facilities and
27 appurtenances are compatible with agriculture uses and cause
28 minimal adverse impact on agricultural land;

29

30 (16) Biofuel processing facilities, including the
31 appurtenances associated with the production and refining of
32 biofuels that is normally considered directly accessory and
33 secondary to the growing of the energy feedstock; provided that
34 biofuel processing facilities and appurtenances do not adversely
35 impact agricultural land and other agricultural uses in the
36 vicinity.

37

38 For the purposes of this paragraph:

____.B. NO. _____

1 "Appurtenances" means operational infrastructure of the
2 appropriate type and scale for economic commercial storage and
3 distribution, and other similar handling of feedstock, fuels,
4 and other products of biofuel processing facilities.

5
6 "Biofuel processing facility" means a facility that
7 produces liquid or gaseous fuels from organic sources such as
8 biomass crops, agricultural residues, and oil crops, including
9 palm, canola, soybean, and waste cooking oils; grease; food
10 wastes; and animal residues and wastes that can be used to
11 generate energy;

12
13 (17) Agricultural-energy facilities, including
14 appurtenances necessary for an agricultural-energy enterprise;
15 provided that the primary activity of the agricultural-energy
16 enterprise is agricultural activity. To be considered the
17 primary activity of an agricultural-energy enterprise, the total
18 acreage devoted to agricultural activity shall be not less than
19 ninety per cent of the total acreage of the agricultural-energy
20 enterprise. The agricultural-energy facility shall be limited
21 to lands owned, leased, licensed, or operated by the entity
22 conducting the agricultural activity.

23
24 As used in this paragraph:

25 "Agricultural activity" means any activity described
26 in paragraphs (1) to (3) of this subsection.

27
28 "Agricultural-energy enterprise" means an enterprise
29 that integrally incorporates an agricultural activity with an
30 agricultural-energy facility.

31
32 "Agricultural-energy facility" means a facility that
33 generates, stores, or distributes renewable energy as defined in
34 section 269-91 or renewable fuel including electrical or thermal
35 energy or liquid or gaseous fuels from products of agricultural
36 activities from agricultural lands located in the State.

37
38 "Appurtenances" means operational infrastructure of
39 the appropriate type and scale for the economic commercial
40 generation, storage, distribution, and other similar handling of
41 energy, including equipment, feedstock, fuels, and other
42 products of agricultural-energy facilities;

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1 (18) Construction and operation of wireless communication
2 antennas, including small wireless facilities; provided that,
3 for the purposes of this paragraph, "wireless communication
4 antenna" means communications equipment that is either
5 freestanding or placed upon or attached to an already existing
6 structure and that transmits and receives electromagnetic radio
7 signals used in the provision of all types of wireless
8 communications services; provided further that "small wireless
9 facilities" shall have the same meaning as in section 206N-2;
10 provided further that nothing in this paragraph shall be
11 construed to permit the construction of any new structure that
12 is not deemed a permitted use under this subsection;

13
14 (19) Agricultural education programs conducted on a
15 farming operation as defined in section 165-2, for the education
16 and participation of the general public; provided that the
17 agricultural education programs are accessory and secondary to
18 the principal agricultural use of the parcels or lots on which
19 the agricultural education programs are to occur and do not
20 interfere with surrounding farm operations. For the purposes of
21 this paragraph, "agricultural education programs" means
22 activities or events designed to promote knowledge and
23 understanding of agricultural activities and practices conducted
24 on a farming operation as defined in section 165-2;

25
26 (20) Solar energy facilities that do not occupy more than
27 ten per cent of the acreage of the parcel[7] or twenty acres of
28 land, whichever is lesser or for which a special use permit is
29 granted pursuant to section 205-6; provided that this use shall
30 not be permitted on lands with soil classified by the land study
31 bureau's detailed land classification as overall (master)
32 productivity rating class A;

33
34 (21) Solar energy facilities on lands with soil classified
35 by the land study bureau's detailed land classification as
36 overall (master) productivity rating B or C for which a special
37 use permit is granted pursuant to section 205-6; provided that:

38
39 (A) The area occupied by the solar energy
40 facilities is also made available for compatible agricultural

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1 activities at a lease rate that is at least fifty per cent below
2 the fair market rent for comparable properties;

3 (B) Proof of financial security to decommission
4 the facility is provided to the satisfaction of the appropriate
5 county planning commission prior to date of commencement of
6 commercial generation; and

7 (C) Solar energy facilities shall be
8 decommissioned at the owner's expense according to the following
9 requirements:

10 (i) Removal of all equipment related to the
11 solar energy facility within twelve months of the conclusion of
12 operation or useful life; and

13 (ii) Restoration of the disturbed earth to
14 substantially the same physical condition as existed prior to
15 the development of the solar energy facility.

16 For the purposes of this paragraph, "agricultural
17 activities" means the activities described in paragraphs (1) to
18 (3);

19 (22) Geothermal resources exploration and geothermal
20 resources development, as defined under section 182-1; [~~ex~~]

21
22 (23) Hydroelectric facilities, including the appurtenances
23 associated with the production and transmission of hydroelectric
24 energy, subject to section 205-2; provided that the
25 hydroelectric facilities and their appurtenances:
26

____.B. NO. _____

1 (A) Shall consist of a small hydropower facility
2 as defined by the United States Department of Energy, including:

3 (i) Impoundment facilities using a dam to
4 store water in a reservoir;

5 (ii) A diversion or run-of-river facility
6 that channels a portion of a river through a canal or channel;
7 and

8 (iii) Pumped storage facilities that store
9 energy by pumping water uphill to a reservoir at higher
10 elevation from a reservoir at a lower elevation to be released
11 to turn a turbine to generate electricity;

12 (B) Comply with the state water code, chapter
13 174C;

14 (C) Shall, if over five hundred kilowatts in
15 hydroelectric generating capacity, have the approval of the
16 commission on water resource management, including a new
17 instream flow standard established for any new hydroelectric
18 facility; and

19 (D) Do not impact or impede the use of
20 agricultural land or the availability of surface or ground water
21 for all uses on all parcels that are served by the ground water

____.B. NO. _____

1 sources or streams for which hydroelectric facilities are
2 considered~~[]~~; or
3 (24) Composting and co-composting facilities or
4 operations."

5

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PART IV

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SECTION 6. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9

SECTION 7. This Act shall take effect on July 1, 2025.

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INTRODUCED BY: _____

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