

Report Title:

Hawaii Innovations Partnership Corporation

Description:

Establishes the Hawaii Innovations Partnership Corporation to provide research and development grants and to invest in enterprises in advanced technology, life sciences, and renewable energy fields. (SB2546 HD1)



A BILL FOR AN ACT

RELATING TO ECONOMIC DEVELOPMENT.

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

1 SECTION 1. This Act shall be known as The Hawaii
2 Innovations Partnership Act.

3 SECTION 2. The legislature finds that during this robust
4 economy, long-range planning is essential to ensure that
5 Hawaii's economy is diversified, provides high-paying jobs to
6 retain the best and brightest of its children, and can sustain
7 growth into the future. The legislature finds that emerging
8 Hawaii-based entrepreneurs in the fields of advanced technology,
9 life sciences, and renewable energy represent the future for
10 Hawaii. These types of enterprises are poised at the earliest
11 stages of product development and need public financial support
12 to move to the next level on the road to commercial success.

13 The purpose of this Act is to aggressively jump-start a new
14 economy in Hawaii based on advanced technology, life sciences,
15 and renewable energy by establishing a \$100,000,000 fund to
16 invest in these entrepreneurial ventures.



1 SECTION 3. The Hawaii Revised Statutes is amended by
2 adding to title 5 a new chapter to be appropriately designated
3 and to read as follows:

4 "CHAPTER

5 THE HAWAII INNOVATIONS PARTNERSHIP CORPORATION

6 § -1 The Hawaii innovations partnership corporation;

7 **purpose.** (a) There is established the Hawaii innovations
8 partnership corporation, which shall be a public body corporate
9 and politic and an instrumentality and agency of the State. The
10 corporation shall be placed within the department of budget and
11 finance for administrative purposes only.

12 (b) The purpose of this corporation shall be to:

13 (1) Stimulate economic development in the fields of
14 advanced technology, life sciences, and renewable
15 energy in Hawaii through research and development
16 grants for commercially viable products and services;

17 (2) Provide seed capital investment for entrepreneurial
18 ventures to assist the enterprise toward commercial
19 success;

20 (3) Provide business technical support for funded
21 enterprises to achieve commercial success and
22 independent capitalization;



1 (4) Promote high quality, high-income job opportunities
2 for Hawaii's residents and graduates of Hawaii's
3 educational institutions; and

4 (5) Manage the Hawaii innovations partnership special fund
5 to ensure stable funding for projects and preserve the
6 fund corpus.

7 **§ - 2 Definitions.** As used in this chapter, unless the
8 context requires otherwise:

9 "Advanced technology" means new and emerging technology in
10 digital media, telecommunications, sensor and optic technology,
11 and information technologies.

12 "Board" means the board of directors of the Hawaii
13 innovations partnership corporation.

14 "Corporation" means the Hawaii innovations partnership
15 corporation.

16 "Direct investment" means an investment by the corporation
17 in qualified securities of an enterprise to provide capital to
18 the enterprise.

19 "Economic development project" means a commercially viable
20 endeavor related to advanced technology, life sciences, and
21 renewable energy.



1 "Enterprise" means a person with a primary place of
2 business in Hawaii that is engaged in activities relating to the
3 commercial development of a product or service in the fields of
4 advanced technology, life sciences, or renewable energy.

5 "Life sciences" means biology, cancer research, community
6 healthcare, ocean sciences, agriculture, pharmacology,
7 biotechnology, medical technology, or related fields.

8 "Person" means a sole proprietorship, partnership, joint
9 venture, corporation, or other association of persons organized
10 for commercial or industrial purposes.

11 "Professional investor" means any bank, bank holding
12 company, savings institution, trust company, insurance company,
13 investment company registered under the federal Investment
14 Company Act of 1940, financial services loan company, or other
15 financial institution or institutional buyer, licensee under the
16 federal Small Business Investment Act of 1958, or any person,
17 partnership, or other entity of whose resources a substantial
18 amount is dedicated to investing in securities or debt
19 instruments, and whose net worth exceeds \$500,000.

20 "Qualified security" means any note, stock, treasury stock
21 bond, debenture, evidence of indebtedness, certificate of
22 interest or participation in any profit-sharing agreement,



1 preorganization certificate of subscription, transferable share,
2 investment contract, certificate of deposit for a security,
3 certificate of interest or participation in a patent or patent
4 application, or in royalty or other payments under such a patent
5 or application, or, in general, any interest or instrument
6 commonly known as a "security" or any certificate for, receipt
7 for, or option, warrant, or right to subscribe to or purchase
8 any of the foregoing.

9 "Renewable energy" means new and emerging technologies to
10 produce electrical energy, without the use of fossil fuels, by
11 wind, solar energy, hydropower, landfill gas, waste to energy,
12 geothermal resources, ocean thermal energy conversion, wave
13 energy, biomass, including municipal solid waste, biofuels, or
14 fuels derived from organic sources, hydrogen fuels derived from
15 renewable energy, or fuel cells where the fuel is derived from
16 renewable sources.

17 "Seed capital" means:

- 18 (1) Financing provided for the earliest stage of business
19 development that enables a project or idea to develop
20 into a business;
- 21 (2) Equity or loan capital provided for a new or existing
22 business undertaking;



1 (3) Funding to develop a concept or product idea to the
2 state at which its practical and commercial viability
3 can be assessed; and

4 (4) Funds invested in new and young companies that have
5 not yet fully established commercial operations.

6 "Venture capital investment" means any of the following
7 investments in a business:

8 (1) Common or preferred stock and equity securities
9 without a repurchase requirement for at least five
10 years;

11 (2) A right to purchase stock or equity securities;

12 (3) Any debenture or loan, whether or not convertible or
13 having stock purchase rights, which are subordinated,
14 together with security interests against the assets of
15 the borrower, by their terms to all borrowings of the
16 borrower from other institutional lenders, and that is
17 for a term of not less than three years, and that has
18 no part amortized during the first three years; and

19 (4) General or limited partnership interests.

20 **§ - 3 Board of directors.** (a) The governing body of the
21 corporation shall be a board of directors consisting of seven



1 voting members to be appointed by the governor for staggered
2 terms pursuant to section 26-34 as follows:

3 (1) Three to be appointed directly by the governor;

4 (2) Two to be appointed from a list of nominees submitted
5 by the president of the senate; and

6 (3) Two to be appointed from a list of nominees submitted
7 by the speaker of the house of representatives,

8 and shall be selected on the basis of their national academic or
9 industry reputations as experts or industry leaders in fields of
10 economic diversification and development, venture capital or
11 private equity investing, or technical knowledge in the fields
12 of advanced technology, life sciences, or renewable energy
13 technologies. The director of budget and finance shall serve as
14 an ex officio nonvoting member. No voting member shall be an
15 employee of the State during the member's term of office on the
16 board. All appointed members of the board shall continue in
17 office until their respective successors have been appointed.

18 (b) The chairperson of the board shall be selected by
19 majority vote of the members of the board.

20 (c) The members of the board shall serve without
21 compensation, but may be reimbursed for expenses, including
22 travel expenses, incurred in the performance of their duties.



1 (d) The board shall appoint a chief executive officer of
2 the corporation who shall serve at the pleasure of the board and
3 shall be exempt from chapter 76. The board shall set the salary
4 and duties of the chief executive officer.

5 (e) A board member shall not participate in any
6 corporation decision to invest in, purchase from, sell to,
7 borrow from, loan to, contract with, or otherwise deal with any
8 person with whom or entity in which the board member has a
9 substantial financial interest.

10 (f) Decisions shall be made based on majority vote of
11 quorum, except for decisions to reject recommendations from
12 technical advisory committees relating to research and
13 development grants, in which case decisions shall be made based
14 on a two-thirds majority of the board. A quorum shall be four
15 members.

16 **§ - 4 Funds.** There are established the following
17 revolving funds:

18 (1) The Hawaii innovations partnership special fund. All
19 moneys appropriated by the legislature, received as
20 repayments of loans, earned on investments, received
21 pursuant to a venture agreement, received as
22 royalties, received as premiums or fees charged by the



1 corporation, or otherwise received by the corporation
2 shall be deposited into the Hawaii innovations
3 partnership special fund, which shall be a revolving
4 fund and shall not be considered part of the general
5 fund. The corporation may expend moneys from this
6 fund for the general operating costs of the
7 corporation and costs for professional investor
8 services as provided in section -6. The corpus of
9 this special fund shall not be reduced below
10 \$50,000,000, except by prior authorization of the
11 legislature;

- 12 (2) The Hawaii innovations partnership research and
13 development fund. Subject to legislative
14 appropriation, the board may transfer from the Hawaii
15 innovations partnership special fund to the Hawaii
16 innovations partnership research and development fund
17 up to \$10,000,000 for the first year of operation and
18 thereafter, for each year, an amount not to exceed
19 four per cent of the fiscal year-end corpus balance of
20 the Hawaii innovations partnership special fund.
21 Funds from the Hawaii innovations partnership research
22 and development fund may be expended for:



1 (A) Research and development grants as provided in
2 the research and development grant program under
3 section -5;

4 (B) Costs to administer the research and development
5 grant program; and

6 (C) Costs to provide funded projects with technical
7 business support;

8 and

9 (3) The Hawaii innovations partnership investment fund.
10 Subject to legislative appropriation, the board may
11 transfer from the Hawaii innovations partnership
12 special fund to the Hawaii innovations partnership
13 investment fund, which shall be a revolving fund, up
14 to \$25,000,000 for the first two years of operation
15 and thereafter for each year, an amount not to exceed
16 fifty per cent of any new funding appropriated by the
17 legislature to the Hawaii innovations partnership
18 special fund or five per cent of the fiscal year-end
19 corpus balance of the Hawaii innovations partnership
20 special fund, whichever is greater; provided that the
21 corpus shall not be reduced below \$50,000,000. Moneys



1 from the Hawaii innovations partnership investment
2 fund may be expended for:

3 (A) Investments as provided in the venture capital
4 investment program under section -6;

5 (B) Costs to administer the venture capital
6 investment program; and

7 (C) Costs to provide funded projects with technical
8 business support.

9 **§ - 5 Research and development grant program.** The
10 corporation shall establish a research and development grant
11 program to provide seed capital to develop a commercially viable
12 new idea for a product or service in the fields of advanced
13 technology, life sciences, or renewable energy. Grants shall be
14 awarded to Hawaii-based enterprises through a competitive
15 process and reviewed by technical advisory committees with
16 subject matter expertise. Criteria for the award of grants
17 shall include:

- 18 (1) A market need for the product or service;
19 (2) Commercial viability;
20 (3) The development timeline;
21 (4) The ability to receive matching funding from other
22 sources;



1 (5) The potential to return, within seven years, revenue
2 or profit sharing, royalties, license fees, or other
3 income equal to three times the amount of the initial
4 grant; and

5 (6) Whether the enterprise will provide high-paying jobs
6 for residents.

7 The technical advisory committees shall make recommendations to
8 the board on grant awards, which shall be approved by a majority
9 of the quorum of the board or rejected by a two-thirds majority
10 of the board. Grants shall not exceed \$250,000 for a project.
11 No additional funding shall be awarded except upon demonstrated
12 progress toward product development and commercial success.

13 **§ - 6 Venture capital investment program.** The
14 corporation shall establish a venture capital investment program
15 to fund Hawaii-based enterprises with economic development
16 projects that require seed capital to achieve commercial
17 success. The board shall select professional investors who
18 manage venture capital investment programs through a competitive
19 process and may use technical advisors to evaluate the
20 proposals. Criteria for selection of professional investors
21 shall include:



- 1 (1) A demonstrated ability to provide matching funds for
- 2 venture capital or private equity investments in
- 3 Hawaii;
- 4 (2) Having a principal place of business and substantial
- 5 operations in Hawaii;
- 6 (3) Providing high-paying jobs for Hawaii residents;
- 7 (4) The potential to provide significant returns on
- 8 investments; and
- 9 (5) Relevant professional expertise, experience,
- 10 understanding, and commitment necessary to address the
- 11 capital formation and funding needs of Hawaii's
- 12 emerging growth enterprises involved in advanced
- 13 technology, life sciences, and renewable energy.

14 **§ - 7 Duty to invest the corpus of the Hawaii innovations**
15 **partnership special fund.** The professional investor selected by
16 the board shall invest and manage the corpus of the Hawaii
17 innovations partnership special fund. The investment of the
18 corpus shall be in low-risk qualified securities as described in
19 section 36-21, to preserve the corpus while providing a
20 reasonable rate of return on the investment to fund the research
21 and development grant and venture capital investment programs.
22 To the extent possible, the professional investor shall have a



1 principal place of business and substantial operations in Hawaii
2 and provide high-paying jobs to Hawaii's residents.

3 **§ - 8 Powers of corporation.** (a) The corporation shall
4 have all powers necessary to carry out its purposes, which shall
5 include the power to:

- 6 (1) Adopt guidelines and procedures to carry out the
7 purposes of this chapter that shall not be subject to
8 chapter 91;
- 9 (2) Adopt an official seal;
- 10 (3) Sue and be sued, in its own name;
- 11 (4) Enter into contracts and other appropriate
12 arrangements to carry out the research and development
13 grant and venture capital investment programs, and to
14 invest the corpus of the Hawaii innovations
15 partnership special fund, as well as other operations
16 of the corporation;
- 17 (5) Contract with experts who can provide advice and
18 technical and marketing assistance, support, and
19 promotion to enterprises in which investments or
20 grants have been made;



- 1 (6) Coordinate the corporation's programs with any
2 education and training program in Hawaii's educational
3 institutions;
- 4 (7) Provide and pay for advisory services and technical,
5 managerial, and marketing assistance, support, and
6 promotion as may be necessary or desirable to carry
7 out the purposes of this chapter;
- 8 (8) Acquire, hold, and sell qualified securities;
- 9 (9) Accept donations, grants, bequests, and devises of
10 money, property, service, or other things of value
11 that may be received from the United States or any
12 agency thereof, any governmental agency, or any public
13 or private institution, person, firm, or corporation,
14 to be held, used, or applied for any or all of the
15 purposes specified in this chapter. Receipt of each
16 donation or grant shall be detailed in the annual
17 report of the corporation. The report shall include
18 the identity of the donor or lender, the nature of the
19 transaction, and any conditions attaching thereto;
- 20 (10) Acquire, own, hold, dispose of, and encumber personal
21 property of any nature or any interest therein;



- 1 (11) Enter into agreements or other transactions with any
2 federal, state, or county agency;
- 3 (12) Make contracts and execute all instruments necessary
4 or convenient for the carrying on of its business;
- 5 (13) Appear in its own behalf before state, county, or
6 federal agencies;
- 7 (14) Procure insurance as may be necessary;
- 8 (15) Appoint officers, employees, consultants, agents, and
9 advisors, who shall not be subject to chapter 76, and
10 prescribe their duties and fix compensation within the
11 limitations provided by law;
- 12 (16) Appoint technical advisors or advisory committees as
13 deemed necessary; and
- 14 (17) Exercise any other powers of a corporation organized
15 under the laws of the State.

16 (b) The corporation shall not promise to answer for the
17 debts of any other person.

18 **§ - 9 Contracts for services necessary for management and**
19 **operation of corporation.** The corporation may contract with
20 others, public or private, for the provision of all or a portion
21 of the services necessary for the management and operation of
22 the corporation. The corporation shall have the power to use



1 all appropriations, grants, contractual reimbursements, and all
2 other funds not appropriated for a designated purpose to pay for
3 the proper general expenses and to carry out the purposes of the
4 corporation. The corporation shall adopt procedures for
5 competitive selection of contractors as required under this
6 chapter and shall not be subject to the state procurement code
7 under chapter 103D.

8 **§ - 10 Meetings of the board.** (a) Meetings of the board
9 shall be open to the public as provided in section 92-3;
10 provided that when it is necessary for the board to receive
11 information that is proprietary to a particular enterprise the
12 disclosure of which might be harmful to the business interests
13 of the enterprise, the board may enter into an executive meeting
14 that is closed to the public.

15 (b) Executive meetings of the board shall be subject to
16 the procedural requirements of section 92-4; provided that this
17 authorization to hold executive meetings in accordance with
18 subsection (a) shall be in addition to the exceptions listed in
19 section 92-5, to enable the corporation to respect the
20 proprietary requirements of enterprises with which it has
21 business dealings.



1 **§ - 11 Confidentiality of trade secrets or the like;**
2 **disclosure of financial information.** Notwithstanding chapters
3 92 and 92F or any other law to the contrary, any documents or
4 data made or received by any member or employee of the
5 corporation, to the extent that the material or data consist of
6 trade secrets or commercial or financial information regarding
7 the operation of any business conducted by an applicant for, or
8 recipient of, any form of assistance that the corporation is
9 empowered to render, or regarding the competitive position of
10 that applicant in a particular field of endeavor, shall not be a
11 government record; provided that if the corporation purchases a
12 qualified security from an applicant, the commercial and
13 financial information, excluding confidential business
14 information, shall be deemed to be a government record of the
15 corporation. If the information is made or received by any
16 member or employee of the corporation after the purchase of the
17 qualified security, it shall become a government record three
18 years from the date the information was made or received. Any
19 discussion or consideration of trade secrets or commercial or
20 financial information shall be held by the board, or any
21 subcommittee of the board, in executive sessions closed to the
22 public; provided that the purpose of any such executive session



1 shall be set forth in the official minutes of the corporation,
2 and business that is not related to that purpose shall not be
3 transacted, nor shall any vote be taken during the executive
4 sessions.

5 **§ - 12 Limitation on liability.** Chapters 661 and 662 or
6 any other law to the contrary notwithstanding, nothing in this
7 chapter shall create an obligation, debt, claim, cause of
8 action, claim for relief, charge, or any other liability of any
9 kind whatsoever in favor of any person or entity, without regard
10 to whether that person or entity receives any benefits under
11 this chapter, against the State or its officers and employees.
12 The State and its officers and employees shall not be liable for
13 the results of any investment, purchase of securities, loan, or
14 other assistance provided pursuant to this chapter. Nothing in
15 this chapter shall be construed as authorizing any claim against
16 the corporation in excess of any note, loan, or other specific
17 indebtedness incurred by the corporation or in excess of any
18 insurance policy acquired for the corporation or its employees.

19 **§ - 13 Annual report.** The corporation shall submit a
20 complete and detailed report of the corporation's activities to
21 the legislature not later than twenty days before the convening
22 of the regular session of 2007, and every year thereafter. The



1 report shall include performance metrics that include but are
2 not limited to the following:

- 3 (1) Number of new companies formed through grants or
4 venture capital investment;
- 5 (2) Amount of new venture capital investments matched to
6 state funding;
- 7 (3) Amount of new research and development funding from
8 private or government obtained to match state funding;
9
- 10 (4) Patent activity;
- 11 (5) Technology licensing activity and income;
- 12 (6) Amount of company revenue growth in enterprises
13 receiving state funding; and
- 14 (7) Number of new innovation jobs created from enterprises
15 receiving state funding.

16 **§ - 14 Audit.** Commencing with the second year of
17 operation, the auditor shall conduct annual audits of the
18 corporation."

19 SECTION 4. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$100,000,000 or so
21 much thereof as may be necessary for fiscal year 2006-2007 to be



1 deposited into the Hawaii innovations partnership special fund.

2

3 The sum appropriated shall be expended by the department of
4 budget and finance for the purposes of this Act.

5 SECTION 5. There is appropriated out of the Hawaii
6 innovations partnership special fund the sum of \$100,000,000 or
7 so much thereof as may be necessary for fiscal year 2006-2007 to
8 be used for the purposes of this Act.

9 The sum appropriated shall be expended by the Hawaii
10 innovations partnership corporation for the purposes of this
11 Act.

12 SECTION 6. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of one-half of one per
14 cent of the general revenues of the State or so much thereof as
15 may be necessary for fiscal year 2007-2008 to be deposited into
16 the Hawaii innovations partnership special fund.

17 The sum appropriated shall be expended by the department of
18 budget and finance for the purposes of this Act.

19 SECTION 7. There is appropriated out of the Hawaii
20 innovations partnership special fund the sum of one-half of one
21 per cent or so much thereof as may be necessary for fiscal year
22 2007-2008 to be used for the purposes of this Act.



1 The sum appropriated shall be expended by the Hawaii
2 innovations partnership corporation for the purposes of this
3 Act.

4 SECTION 8. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of one-half of one per
6 cent of the general revenues of the State or so much thereof as
7 may be necessary for fiscal year 2008-2009 to be deposited into
8 the Hawaii innovations partnership special fund.

9 The sum appropriated shall be expended by the department of
10 budget and finance for the purposes of this Act.

11 SECTION 9. There is appropriated out of the Hawaii
12 innovations partnership special fund the sum of one-half of one
13 per cent or so much thereof as may be necessary for fiscal year
14 2008-2009 to be used for the purposes of this Act.

15 The sum appropriated shall be expended by the Hawaii
16 innovations partnership corporation for the purposes of this
17 Act.

18 SECTION 10. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of one-half of one per
20 cent of the general revenues of the State or so much thereof as
21 may be necessary for fiscal year 2009-2010 to be deposited into
22 the Hawaii innovations partnership special fund.



1 The sum appropriated shall be expended by the department of
2 budget and finance for the purposes of this Act.

3 SECTION 11. There is appropriated out of the Hawaii
4 innovations partnership special fund the sum of one-half of one
5 per cent or so much thereof as may be necessary for fiscal year
6 2009-2010 to be used for the purposes of this Act.

7 The sum appropriated shall be expended by the Hawaii
8 innovations partnership corporation for the purposes of this
9 Act.

10 SECTION 12. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of one-half of one per
12 cent of the general revenues of the State or so much thereof as
13 may be necessary for fiscal year 2010-2011 to be deposited into
14 the Hawaii innovations partnership special fund.

15 The sum appropriated shall be expended by the department of
16 budget and finance for the purposes of this Act.

17 SECTION 13. There is appropriated out of the Hawaii
18 innovations partnership special fund the sum of one-half of one
19 per cent or so much thereof as may be necessary for fiscal year
20 2010-2011 to be used for the purposes of this Act.



1 The sum appropriated shall be expended by the Hawaii
2 innovations partnership corporation for the purposes of this
3 Act.

4 SECTION 14. This Act shall take effect upon its approval;
5 provided that sections 4 and 5 shall take effect on July 1,
6 2006, sections 6 and 7 shall take effect on July 1, 2007,
7 sections 8 and 9 shall take effect on July 1, 2008, sections 10
8 and 11 shall take effect on July 1, 2009, and sections 12 and 13
9 shall take effect on July 1, 2010.

