

1 § -2 Hawaii construction authority; establishment;
2 board; staff. (a) There is established the Hawaii construction
3 authority, which shall be a body corporate and a public
4 instrumentality of the State, for the purpose of implementing
5 this chapter. The authority shall be placed within the
6 department of labor and industrial relations for administrative
7 purposes only.

8 (b) The authority shall be headed by a policy-making board
9 of directors which consists of twelve public, voting members,
10 and four ex officio nonvoting members; provided that:

11 (1) The twelve public, voting members shall be appointed
12 by the governor as provided in section 26-34, except
13 as otherwise provided by law;

14 (2) The twelve public, voting members shall be composed of
15 at least one representative each from the city and the
16 counties of Honolulu, Hawaii, Kauai, and Maui; the
17 remaining public members shall be appointed at-large;

18 (3) Of the twelve public, voting members:

19 (A) Three shall be appointed by the governor from a
20 list of three names submitted for each
21 appointment by the president of the senate; and



1 (B) Three shall be appointed by the governor from a
2 list of three names submitted for each
3 appointment by the speaker of the house of
4 representatives;

5 provided that if fewer than three names are submitted
6 for each appointment, the governor may disregard the
7 list;

8 (4) Of the twelve public, voting members at least:

9 (A) Six shall have knowledge, experience, and
10 expertise in at least one of the area of
11 construction, architecture, engineering, or the
12 building industry;

13 (B) One shall have knowledge, experience, and
14 expertise with labor organizations representing
15 the construction trades; and

16 (C) One shall have knowledge, experience, and
17 expertise in the area of Hawaiian cultural
18 practices;

19 provided that no more than three members shall
20 represent, be employed by, or be under contract to any
21 sector of the industry represented on the board;



1 (5) The governor shall make appointments to ensure the
2 fulfillment of all requirements; provided that any
3 appointments made after July 1, 2007, shall be made to
4 fulfill the requirements in place when the
5 appointments are made; and

6 (6) The ex-officio nominating members shall be as follows:

7 (A) The director of labor and industrial relations,
8 or a designated representative;

9 (B) The director of commerce and consumer affairs, or
10 a designated representative;

11 (C) The director of business, economic development,
12 and tourism, or a designated representative; and

13 (D) The chairperson of the board of land and natural
14 resources, or a designated representative.

15 (c) The public members shall be appointed by the governor
16 for terms of four years. Each public member shall hold office
17 until the member's successor is appointed and qualified.

18 Section 26-34 shall be applicable insofar as it relates to the
19 number of terms and consecutive number of years a member may
20 serve on the board.

21 (d) The board shall elect a chairperson from among the
22 voting members.



1 (e) Seven voting members shall constitute a quorum and a
2 minimum of seven affirmative votes shall be necessary for all
3 actions by the authority. The members shall serve without
4 compensation, but shall be reimbursed for expenses, including
5 traveling expenses, necessary for the performance of their
6 duties.

7 (f) The board:

8 (1) Shall appoint an executive director, exempt from
9 chapters 76 and 88 who shall oversee the
10 authority staff;

11 (2) Shall set the executive director's salary,
12 duties, responsibilities, holidays, vacations,
13 leave, hours of work, and working conditions;
14 provided that the compensation package shall not
15 include private sector moneys or other
16 contributions; and

17 (3) May grant such other benefits as it deems
18 necessary.

19 (g) The authority may employ persons not subject to
20 chapters 76 and 78 to perform and execute the functions of the
21 authority.



- 1 (4) Make and alter bylaws for its organization and
2 internal management;
- 3 (5) Unless otherwise provided in this chapter, adopt rules
4 in accordance with chapter 91 with respect to its
5 projects, operations, and facilities;
- 6 (6) Through its executive director represent the authority
7 in communications with the governor and with the
8 legislature;
- 9 (7) Through its executive director:
 - 10 (A) Provide for the appointment of officers, agents,
11 and employees, subject to the approval of the
12 board, prescribing their duties and
13 qualifications, and fixing their salaries,
14 without regard to chapters 76 and 78 if there is
15 no anticipated revenue shortfall in the
16 construction authority special fund and funds
17 have been appropriated by the legislature and
18 allotted as provided by law;
 - 19 (B) Purchase supplies, equipment, and furniture; and
 - 20 (C) Allocate the space or spaces which are to be
21 occupied by the authority and appropriate staff;



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- 1 (8) Engage the services of qualified persons to implement
2 the State's construction industry development plan or
3 portions thereof as determined by the authority;
- 4 (9) Engage the services of consultants on a contractual
5 basis for rendering professional and technical
6 assistance and advice;
- 7 (10) Procure insurance against any loss in connection with
8 the state's property and other assets and operations
9 in such amounts and from such insurers as it deems
10 desirable;
- 11 (11) Contract for or accept revenues, compensation,
12 proceeds, and gifts or grants in any form from any
13 public agency or any other source, including any
14 revenues;
- 15 (12) Develop, coordinate, and implement state policies and
16 directions for the construction industry and related
17 activities taking into account the economic, social,
18 and physical impacts of construction on the state and
19 the state's natural resources infrastructure; provided
20 that the authority shall support the efforts of other
21 state and county departments or agencies to manage and
22 improve Hawaii's construction industry;



- 1 (13) Conduct research as necessary;
- 2 (14) Coordinate all agencies and advise the private sector
- 3 in the development of construction activities and
- 4 resources;
- 5 (15) Coordinate the development of new and innovative
- 6 construction and building concepts with the counties
- 7 and other public and private sectors, including the
- 8 development of education and technology programs;
- 9 (16) Establish a public information and educational program
- 10 to inform the public of construction, building, and
- 11 construction-related problems;
- 12 (17) Encourage the development of building trades
- 13 educational, training, and career counseling programs;
- 14 and
- 15 (18) Establish a program to monitor, investigate, and
- 16 respond to complaints about problems resulting
- 17 directly or indirectly from the construction industry
- 18 and taking appropriate action as necessary.
- 19 (b) The authority shall be responsible for:
- 20 (1) Creating a vision and developing a long-range
- 21 strategic plan for construction in Hawaii;



- 1 (2) Coordinating this construction industry plan for the
2 State;
- 3 (3) Reviewing all state and county laws to determine
4 whether there is redundancy, and if so, whether
5 elimination of this redundancy will improve the
6 construction industry in the state;
- 7 (4) Arranging for the conduct of research through
8 contractual services with the University of Hawaii or
9 any agency or other qualified persons concerning the
10 social, economic, and environmental impacts of
11 construction in this state or any other aspects of
12 construction in the state deemed necessary by the
13 board;
- 14 (5) Providing technical or other assistance to agencies
15 and private industry upon request; and
- 16 (6) Reviewing annually the expenditure of public funds by
17 any construction industry organization with which the
18 authority contracts to perform duties related to the
19 long-range construction development plan and making
20 recommendations necessary to ensure the effective use
21 of the funds for the development of construction. The
22 authority shall also prepare annually a report of



1 expenditures, including descriptions and evaluations
 2 of programs funded, together with any recommendations
 3 the authority may make and shall submit the report to
 4 the governor and the legislature as part of the annual
 5 report required under section -13.

6 (c) The authority shall do any and all things necessary to
 7 carry out its purposes, to exercise the powers and
 8 responsibilities given in this chapter, and to perform other
 9 functions required or authorized by law.

10 § -5 Meetings of the board. (a) The meetings of the
 11 board shall be open to the public as provided in section 92-3,
 12 except that when it is necessary for the board to receive
 13 information that is proprietary to a particular enterprise or
 14 the disclosure of which might be harmful to the business
 15 interests of the enterprise, the board may enter into an
 16 executive meeting that is closed to the public.

17 (b) The board shall be subject to the procedural
 18 requirements of section 92-4, and this authorization shall be in
 19 addition to the exceptions listed in section 92-5, to enable the
 20 board to respect the proprietary requirements of enterprises
 21 with which it has business dealings.



1 § -6 Exemption of Hawaii construction authority from
2 administrative supervision of boards and commissions.

3 Notwithstanding any law to the contrary, the authority shall be
4 exempt from section 26-35 with the exception of section
5 26-35(a) (2), (3), (7), and (8) and (b).

6 § -7 Construction industry development plan; measures
7 of effectiveness. (a) The authority shall be responsible for
8 developing a long-range construction industry development plan
9 that shall be updated every year and, at a minimum, include the
10 following:

- 11 (1) Construction projects already in progress;
- 12 (2) Construction projects targeted to begin during the
13 current calendar year;
- 14 (3) Construction projects projected to begin during the
15 next five calendar years;
- 16 (4) A review of all federal, state, and county laws that
17 will affect the construction industry in the state;
- 18 (5) Efforts to improve the construction industry through
19 coordination among agencies that provide oversight or
20 have jurisdiction over construction projects;

1 (6) Projections on the labor needs of the construction
2 industry and the capabilities of the construction
3 industry to meet these demands; and

4 (7) Efforts to improve the education and training of the
5 building trades.

6 (b) In accordance with subsection (a), the authority shall
7 be responsible for developing measures of effectiveness to
8 assess the overall benefits and effectiveness of the long-range
9 construction industry development plan and include documentation
10 of the directly attributable benefits of the plan to:

- 11 (1) Hawaii's construction industry;
- 12 (2) Employment in Hawaii; and
- 13 (3) State taxes.

14 **§ -8 Hawaii construction authority special fund. (a)**

15 There is established the Hawaii construction authority special
16 fund, into which shall be deposited:

- 17 (1) Appropriations by the legislature to the Hawaii
18 construction authority special fund;
- 19 (2) Gifts, grants, and other funds accepted by the
20 authority; and
- 21 (3) All interest and revenues or receipts derived by the
22 authority from any project or project agreements.



1 (b) Moneys in the Hawaii construction authority special
2 fund may be:

3 (1) Placed in interest-bearing accounts; provided that the
4 depository in which the money is deposited furnishes
5 security as provided in section 38-3; or

6 (2) Otherwise invested by the authority until such time as
7 the moneys may be needed; provided that the authority
8 shall limit its investments to those listed in section
9 36-21.

10 All interest accruing from the investment of these moneys shall
11 be credited to the Hawaii construction authority special fund.

12 (c) Moneys in the Hawaii construction authority special
13 fund shall be used by the authority for the purposes of this
14 chapter.

15 § -9 Exemption of authority from Hawaii public
16 procurement code. The authority shall not be subject to chapter
17 103D and any and all other requirements of law for competitive
18 bidding for project agreements, lease and sublease agreements,
19 or other contracts unless a project agreement with respect to a
20 project requires otherwise.



1 **§ -10 Assistance by state and county agencies.** Any
2 state or county agency may render services upon request of the
3 authority.

4 **§ -11 Declaration of public function, purpose, and**
5 **necessity.** The powers and functions granted to and exercised by
6 the Hawaii construction authority under this chapter are
7 declared to be public and governmental functions, exercised for
8 a public purpose, and matters of public necessity.

9 **§ -12 Court proceedings; preferences; venue.** (a) Any
10 action or proceeding to which the authority, the State, or the
11 county may be a party, in which any question arises as to the
12 validity of this chapter, shall be preferred over all other
13 civil cases, except election cases, in the circuit court of the
14 circuit where the case or controversy arises, and shall be heard
15 and determined in preference to all other civil cases pending
16 therein except election cases, irrespective of position on the
17 calendar.

18 (b) Upon application of counsel to the authority, the same
19 preference shall be granted in any action or proceeding
20 questioning the validity of this chapter in which the authority
21 may be allowed to intervene.

1 (c) Any action or proceeding to which the authority, the
 2 State, or the county may be party, in which any question arises
 3 as to the validity of this chapter or any portion of this
 4 chapter, or any action of the authority may be filed in the
 5 circuit court of the circuit where the case or controversy
 6 arises, which court is hereby vested with original jurisdiction
 7 over the action.

8 (d) Notwithstanding any provision of law to the contrary,
 9 declaratory relief from the circuit court may be obtained for
 10 any action.

11 (e) Any party aggrieved by the decision of the circuit
 12 court may appeal in accordance with part I of chapter 641 and
 13 the appeal shall be given priority.

14 § -13 Annual report. The authority shall submit a
 15 complete and detailed annual report of its activities,
 16 expenditures, and results to the governor and the legislature at
 17 least twenty days prior to the convening of each regular session
 18 of the legislature."

19 SECTION 2. Section 28-8.3, Hawaii Revised Statutes, is
 20 amended as follows:

21 1. By amending subsection (a) to read:

1 "(a) No department of the State other than the attorney
2 general may employ or retain any attorney, by contract or
3 otherwise, for the purpose of representing the State or the
4 department in any litigation, rendering legal counsel to the
5 department, or drafting legal documents for the department;
6 provided that the foregoing provision shall not apply to the
7 employment or retention of attorneys:

8 (1) By the public utilities commission, the labor and
9 industrial relations appeals board, and the Hawaii
10 labor relations board;

11 (2) By any court or judicial or legislative office of the
12 State;

13 (3) By the legislative reference bureau;

14 (4) By any compilation commission that may be constituted
15 from time to time;

16 (5) By the real estate commission for any action involving
17 the real estate recovery fund;

18 (6) By the contractors license board for any action
19 involving the contractors recovery fund;

20 (7) By the trustees for any action involving the travel
21 agency recovery fund;

22 (8) By the office of Hawaiian affairs;



- 1 (9) By the department of commerce and consumer affairs for
- 2 the enforcement of violations of chapters 480 and 485;
- 3 (10) As grand jury counsel;
- 4 (11) By the Hawaiian home lands trust individual claims
- 5 review panel;
- 6 (12) By the Hawaii health systems corporation or any of its
- 7 facilities;
- 8 (13) By the auditor;
- 9 (14) By the office of ombudsman;
- 10 (15) By the insurance division;
- 11 (16) By the University of Hawaii;
- 12 (17) By the Kahoolawe island reserve commission;
- 13 (18) By the division of consumer advocacy;
- 14 (19) By the office of elections;
- 15 (20) By the campaign spending commission;
- 16 (21) By the Hawaii tourism authority, as provided in
- 17 section 201B-2.5; [~~or~~]
- 18 (22) By the Hawaii construction authority, as provided in
- 19 section -3; or
- 20 [~~(22)~~] (23) By a department, in the event the attorney
- 21 general, for reasons deemed by the attorney general
- 22 good and sufficient, declines, to employ or retain an



1 attorney for a department; provided that the governor
2 thereupon waives the provision of this section."

3 2. By amending subsection (c) to read:

4 "(c) Every attorney employed by any department on a full-
5 time basis, except an attorney employed by the public utilities
6 commission, the labor and industrial relations appeals board,
7 the Hawaii labor relations board, the office of Hawaiian
8 affairs, the Hawaii health systems corporation, the department
9 of commerce and consumer affairs in prosecution of consumer
10 complaints, insurance division, the division of consumer
11 advocacy, the University of Hawaii, the Hawaii tourism authority
12 as provided in section 201B-2.5, the Hawaii construction
13 authority as provided in section _____-3, the Hawaiian home lands
14 trust individual claims review panel, or as grand jury counsel,
15 shall be a deputy attorney general."

16 SECTION 3. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ _____ or so much
18 thereof as may be necessary for fiscal year 2006-2007 for the
19 establishment of the Hawaii construction authority.

20 The sum appropriated shall be expended by the department of
21 labor and industrial relations for the purposes of this Act.



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 2006.

4

INTRODUCED BY: Chris Fikenscha



SB. NO. 2511

Report Title:

Construction Industry Authority; construction

Description:

Establishes a Construction Industry Authority.

SB HMS 2006-1247

