
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. The purpose of this part is to restore or add
2 the exemption from the State's procurement code for special
3 purpose revenue bonds for health care facilities, manufacturing
4 enterprises, processing enterprises, industrial enterprises,
5 energy projects, early childhood education and care facilities
6 serving the general public, and private nonsectarian and
7 sectarian elementary schools, secondary schools, colleges, and
8 universities serving the general public, on the basis that no
9 public moneys are involved in issuing special purpose revenue
10 bonds.

11 SECTION 2. Section 39A-32, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§39A-32 Department powers as to health care facilities.**

14 In addition to powers [~~which~~] that it may now have, the
15 department shall have all powers necessary or convenient to
16 accomplish the purposes of this part. The powers of the
17 department include but are not limited to the following:



1 (1) Notwithstanding and without compliance with section
2 103-7[7] and chapter 103D, but with the approval of
3 the governor, to:

4 (A) Enter into and carry out a project agreement, or
5 an amendment or supplement to an existing project
6 agreement, with a project party; and

7 (B) Enter into and carry out any agreement, whereby
8 the obligation of a project party under a project
9 agreement will be unconditionally guaranteed by a
10 person other than a project party;

11 (2) To issue special purpose revenue bonds pursuant to and
12 in accordance with this part;

13 (3) To lend the proceeds of the special purpose revenue
14 bonds issued for a project to the project party for
15 use and application by the project party for the
16 acquisition, purchase, construction, reconstruction,
17 improvement, betterment, extension, or refinancing of
18 outstanding obligations related to a project;

19 (4) As security for the payment of the principal [~~of~~],
20 premium, if any, and interest of the special purpose
21 revenue bonds issued for this project, to:

- 1 (A) Pledge, assign, hypothecate, or otherwise
- 2 encumber all or any part of the revenues and
- 3 receipts derived or to be derived by the
- 4 department under the project agreement for the
- 5 project for which [~~such~~] the special purpose
- 6 revenue bonds are issued;
- 7 (B) Pledge and assign the interest and rights of the
- 8 department under the project agreement or other
- 9 agreement with respect to [~~such~~] the project or
- 10 [~~such~~] the special purpose revenue bonds;
- 11 (C) Pledge and assign any bond, debenture, note, or
- 12 other evidence of indebtedness received by the
- 13 department with respect to [~~such~~] the project; or
- 14 (D) Any combination of the foregoing;
- 15 (5) To extend or renew any project agreement or any other
- 16 agreement related thereto; provided that any [~~such~~]
- 17 renewal or extension shall be subject to the approval
- 18 of the governor unless made in accordance with
- 19 provisions for [~~such~~] the extension or renewal
- 20 contained in a project agreement or related agreement
- 21 theretofore approved by the governor; and

1 (6) To do any and all things necessary or convenient to
2 carry out its purposes and exercise the powers given
3 and granted in this part.

4 When the department finances or refines a project by the
5 issuance of special purpose revenue bonds as contemplated by
6 this part, the State shall not exercise the power of eminent
7 domain to acquire a project or any part thereof for lease or
8 transfer to a project party, nor shall the State operate a
9 project on behalf of a project party."

10 SECTION 3. Section 39A-72, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§39A-72 Department powers as to manufacturing**

13 **enterprises.** In addition to powers [~~which~~] that it may now
14 have, the department shall have all powers necessary or
15 convenient to accomplish the purposes of this part. The powers
16 of the department include but are not limited to the following:

17 (1) Notwithstanding and without compliance with section
18 103-7[~~7~~] and chapter 103D, but with the approval of
19 the governor, to:

20 (A) Enter into and carry out a project agreement, or
21 an amendment or supplement to an existing project
22 agreement, with a project party; and

1 (B) Enter into and carry out any agreement, whereby
2 the obligation of a project party under a project
3 agreement will be unconditionally guaranteed by a
4 person other than a project party;

5 (2) To issue special purpose revenue bonds pursuant to and
6 in accordance with this part;

7 (3) To lend the proceeds of the special purpose revenue
8 bonds issued for a project to the project party for
9 use and application by the project party for the
10 acquisition, purchase, construction, reconstruction,
11 improvement, betterment, extension, or maintenance of
12 a project;

13 (4) As security for the payment of the principal [øf],
14 premium, if any, and interest of the special purpose
15 revenue bonds issued for a project, to:

16 (A) Pledge, assign, hypothecate, or otherwise
17 encumber all or any part of the revenues and
18 receipts derived or to be derived by the
19 department under the project agreement for the
20 project for which [~~such~~] the special purpose
21 revenue bonds are issued;

1 (B) Pledge and assign the interest and rights of the
2 department under the project agreement or other
3 agreement with respect to [~~such~~] the project or
4 [~~such~~] the special purpose revenue bonds;

5 (C) Pledge and assign any bond, debenture, note, or
6 other evidence of indebtedness received by the
7 department with respect to [~~such~~] the project; or

8 (D) Any combination of the foregoing;

9 (5) To extend or renew any project agreement or any other
10 agreement related thereto; provided that any [~~such~~]
11 renewal or extension shall be subject to the approval
12 of the governor unless made in accordance with
13 provisions for [~~such~~] the extension or renewal
14 contained in a project agreement or related agreement
15 theretofore approved by the governor; and

16 (6) To do any and all things necessary or convenient to
17 carry out its purposes and exercise the powers given
18 and granted in this part."

19 SECTION 4. Section 39A-112, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§39A-112 Department powers as to processing enterprises.**

22 In addition to powers [~~which~~] that it may now have, the

1 department shall have all powers necessary or convenient to
2 accomplish the purposes of this part. The powers of the
3 department include but are not limited to the following:

4 (1) Notwithstanding and without compliance with section
5 103-7[7] and chapter 103D, but with the approval of
6 the governor, to:

7 (A) Enter into and carry out a project agreement, or
8 an amendment or supplement to an existing project
9 agreement, with a project party; and

10 (B) Enter into and carry out any agreement, whereby
11 the obligation of a project party under a project
12 agreement will be unconditionally guaranteed by a
13 person other than a project party;

14 (2) To issue special purpose revenue bonds pursuant to and
15 in accordance with this part;

16 (3) To lend the proceeds of the special purpose revenue
17 bonds issued for a project to the project party for
18 use and application by the project party for the
19 acquisition, purchase, construction, reconstruction,
20 improvement, betterment, extension, or maintenance of
21 a project;

- 1 (4) As security for the payment of the principal [~~of~~],
2 premium, if any, and interest of the special purpose
3 revenue bonds issued for a project, to:
- 4 (A) Pledge, assign, hypothecate, or otherwise
5 encumber all or any part of the revenues and
6 receipts derived or to be derived by the
7 department under the project agreement for the
8 project for which [~~such~~] the special purpose
9 revenue bonds are issued;
- 10 (B) Pledge and assign the interest and rights of the
11 department under the project agreement or other
12 agreement with respect to [~~such~~] the project or
13 [~~such~~] the special purpose revenue bonds;
- 14 (C) Pledge and assign any bond, debenture, note, or
15 other evidence of indebtedness received by the
16 department with respect to [~~such~~] the project; or
- 17 (D) Any combination of the foregoing;
- 18 (5) To extend or renew any project agreement or any other
19 agreement related thereto; provided that any [~~such~~]
20 renewal or extension shall be subject to the approval
21 of the governor unless made in accordance with
22 provisions for [~~such~~] the extension or renewal



1 contained in a project agreement or related agreement
2 theretofore approved by the governor; and

3 (6) To do any and all things necessary or convenient to
4 carry out its purposes and exercise the powers given
5 and granted in this part."

6 SECTION 5. Section 39A-152, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§39A-152 Department powers as to industrial enterprises.**

9 In addition to powers [~~which~~] that it may now have, the
10 department shall have all powers necessary or convenient to
11 accomplish the purposes of this part. The powers of the
12 department include but are not limited to the following:

13 (1) Notwithstanding and without compliance with section
14 103-7[7] and chapter 103D, but with the approval of
15 the governor, to:

16 (A) Enter into and carry out a project agreement, or
17 an amendment or supplement to an existing project
18 agreement, with a project party; and

19 (B) Enter into and carry out any agreement, whereby
20 the obligation of a project party under a project
21 agreement will be unconditionally guaranteed by a
22 person other than a project party;

1 (2) To issue special purpose revenue bonds pursuant to and
2 in accordance with this part;

3 (3) To lend the proceeds of the special purpose revenue
4 bonds issued for a project to the project party for
5 use and application by the project party for the
6 acquisition, purchase, construction, reconstruction,
7 improvement, betterment, extension, or maintenance of
8 a project;

9 (4) As security for the payment of the principal [~~of~~],
10 premium, if any, and interest of the special purpose
11 revenue bonds issued for a project, to:

12 (A) Pledge, assign, hypothecate, or otherwise
13 encumber all or any part of the revenues and
14 receipts derived or to be derived by the
15 department under the project agreement for the
16 project for which [~~such~~] the special purpose
17 revenue bonds are issued;

18 (B) Pledge and assign the interest and rights of the
19 department under the project agreement or other
20 agreement with respect to [~~such~~] the project or
21 [~~such~~] the special purpose revenue bonds;

1 (C) Pledge and assign any bond, debenture, note, or
2 other evidence of indebtedness received by the
3 department with respect to [~~such~~] the project; or

4 (D) Any combination of the foregoing;

5 (5) To extend or renew any project agreement or any other
6 agreement related thereto; provided that any [~~such~~]
7 renewal or extension shall be subject to the approval
8 of the governor unless made in accordance with
9 provisions for [~~such~~] the extension or renewal
10 contained in a project agreement or related agreement
11 theretofore approved by the governor; and

12 (6) To do any and all things necessary or convenient to
13 carry out its purposes and exercise the powers given
14 and granted in this part."

15 SECTION 6. Section 39A-192, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§39A-192 Department powers as to energy projects.** In
18 addition to powers [~~which~~] that it may now have, the department
19 shall have all powers necessary or convenient to accomplish the
20 purposes of this part. The powers of the department include but
21 are not limited to the following:

- 1 (1) Notwithstanding and without compliance with section
- 2 103-7[7] and chapter 103D, but with the approval of
- 3 the governor, to:
- 4 (A) Enter into and carry out a project agreement, or
- 5 an amendment or supplement to an existing project
- 6 agreement, with a project party; and
- 7 (B) Enter into and carry out any agreement, whereby
- 8 the obligation of a project party under a project
- 9 agreement will be unconditionally guaranteed by a
- 10 person other than a project party;
- 11 (2) To issue special purpose revenue bonds pursuant to and
- 12 in accordance with this part;
- 13 (3) To lend the proceeds of the special purpose revenue
- 14 bonds issued for an energy project to the project
- 15 party for use and application by the project party for
- 16 the acquisition, purchase, construction,
- 17 reconstruction, improvement, betterment, or extension
- 18 of an energy project;
- 19 (4) As security for the payment of the principal of and
- 20 interest on the special purpose revenue bonds issued
- 21 for an energy project, to:

- 1 (A) Pledge, assign, hypothecate, or otherwise
- 2 encumber all or any part of the revenues and
- 3 receipts derived or to be derived by the
- 4 department under the project agreement for the
- 5 energy project for which [~~such~~] the special
- 6 purpose revenue bonds are issued;
- 7 (B) Pledge and assign the interest and rights of the
- 8 department under the project agreement or other
- 9 agreement with respect to [~~such~~] the project or
- 10 [~~such~~] the special purpose revenue bonds;
- 11 (C) Pledge and assign any bond, debenture, note, or
- 12 other evidence of indebtedness received by the
- 13 department with respect to [~~such~~] the energy
- 14 project; or
- 15 (D) Any combination of the foregoing;
- 16 (5) To extend or renew any project agreement or any other
- 17 agreement related thereto; provided that any [~~such~~]
- 18 renewal or extension shall be subject to the approval
- 19 of the governor unless made in accordance with
- 20 provisions for [~~such~~] the extension or renewal
- 21 contained in a project agreement or related agreement
- 22 theretofore approved by the governor; and

1 (6) To do any and all things necessary or convenient to
2 carry out its purposes and exercise the powers given
3 and granted in this part.

4 When the department finances an energy project by the issuance
5 of special purpose revenue bonds as contemplated by this part,
6 the State shall not exercise the power of eminent domain to
7 acquire an energy project or any part thereof for lease or
8 transfer to a project party, nor shall the State operate a
9 project on behalf of a project party."

10 SECTION 7. Section 39A-222, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~[+]§39A-222[+]~~ **Department powers as to early childhood**
13 **education and care facilities.** In addition to powers ~~[which]~~
14 that it may now have, the department shall have all powers
15 necessary or convenient to accomplish the purposes of this part.
16 The powers of the department include~~[r]~~ but are not limited
17 to~~[r]~~ the following:

- 18 (1) Notwithstanding and without compliance with section
19 103-7~~[r]~~ and chapter 103D, but with the approval of
20 the governor, to ~~[enter]~~:
21 (A) Enter into and carry out a project agreement, or
22 an amendment or supplement to an existing project

1 agreement, with a project party[~~-~~]; and [~~to~~
2 enter]

3 (B) Enter into and carry out any agreement, whereby
4 the obligation of a project party under a project
5 agreement will be unconditionally guaranteed by a
6 person other than a project party[~~-~~];

7 (2) To issue special purpose revenue bonds pursuant to and
8 in accordance with this part[~~-~~];

9 (3) To lend the proceeds of the special purpose revenue
10 bonds issued for a project to the project party for
11 use and application by the project party for the
12 acquisition, purchase, construction, reconstruction,
13 improvement, betterment, extension, or refinancing of
14 outstanding obligations related to a project[~~-~~];

15 (4) As security for the payment of the principal [~~of~~],
16 premium, if any, and interest of the special purpose
17 revenue bonds issued for this project, to [~~pledge~~];

18 (A) Pledge, assign, hypothecate, or otherwise
19 encumber all or any part of the revenues and
20 receipts derived or to be derived by the
21 department under the project agreement for the

1 project for which [~~such~~] the special purpose
2 revenue bonds are issued; [~~to pledge~~]

3 (B) Pledge and assign the interest and rights of the
4 department under the project agreement or other
5 agreement with respect to [~~such~~] the project or
6 [~~such~~] the special purpose revenue bonds; [~~and to~~
7 ~~pledge~~]

8 (C) Pledge and assign any bond, debenture, note, or
9 other evidence of indebtedness received by the
10 department with respect to [~~such~~] the project; or
11 [~~any~~]

12 (D) Any combination of the foregoing[~~-~~];

13 (5) To extend or renew any project agreement or any other
14 agreement related thereto; provided that any [~~such~~]
15 renewal or extension shall be subject to the approval
16 of the governor unless made in accordance with
17 provisions for [~~such~~] the extension or renewal
18 contained in a project agreement or related agreement
19 theretofore approved by the governor[~~-~~]; and

20 (6) To do any and all things necessary or convenient to
21 carry out its purposes and exercise the powers given
22 and granted in this part.

1 When the department finances or refines a project by the
2 issuance of special purpose revenue bonds as contemplated by
3 this part, the State shall not exercise the power of eminent
4 domain to acquire a project or any part thereof for lease or
5 transfer to a project party, nor shall the State operate a
6 project on behalf of a project party."

7 SECTION 8. Section 39A-252, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~§~~39A-252~~§~~ Department powers as to private
10 nonsectarian and sectarian elementary schools, secondary
11 schools, colleges, and universities. In addition to powers that
12 it may now have, the department shall have all powers necessary
13 or convenient to accomplish the purposes of this part. The
14 powers of the department include but are not limited to the
15 following:

16 (1) Notwithstanding and without compliance with section
17 103-7~~7~~ and chapter 103D, but with the approval of
18 the governor, to:

19 (A) Enter into and carry out a project agreement or
20 an amendment or supplement to an existing project
21 agreement with a project party; and

1 (B) Enter into and carry out any agreement, whereby
2 the obligation of a project party under a project
3 agreement will be unconditionally guaranteed by a
4 person other than a project party;

5 (2) To issue special purpose revenue bonds pursuant to and
6 in accordance with this part;

7 (3) To lend the proceeds of the special purpose revenue
8 bonds issued for a project to the project party for
9 use and application by the project party for the
10 acquisition, purchase, construction, reconstruction,
11 improvement, betterment, extension, or refinancing of
12 outstanding obligations related to a project;

13 (4) As security for the payment of the principal, premium,
14 if any, and interest of the special purpose revenue
15 bonds issued for this project, to [~~pledge~~]:

16 (A) Pledge, assign, hypothecate, or otherwise
17 encumber all or any part of the revenues and
18 receipts derived or to be derived by the
19 department under the project agreement for the
20 project for which [~~such~~] the special purpose
21 revenue bonds are issued; [~~to pledge~~]

1 (B) Pledge and assign the interest and rights of the
2 department under the project agreement or other
3 agreement with respect to the project or the
4 special purpose revenue bonds; [~~and to pledge~~]

5 (C) Pledge and assign any bond, debenture, note, or
6 other evidence of indebtedness received by the
7 department with respect to the project; or [~~any~~]

8 (D) Any combination of the foregoing;

9 (5) To extend or renew any project agreement or any other
10 agreement related to the project agreement; provided
11 that any [~~such~~] renewal or extension shall be subject
12 to the approval of the governor unless made in
13 accordance with provisions for [~~such~~] the extension or
14 renewal contained in a project agreement or related
15 agreement theretofore approved by the governor; and

16 (6) To do any and all things necessary or convenient to
17 carry out its purposes and exercise the powers given
18 and granted in this part.

19 When the department finances or refinances a project by the
20 issuance of special purpose revenue bonds as contemplated by
21 this part, the State shall not exercise the power of eminent
22 domain to acquire a project or any part of the project for lease

1 or transfer to a project party, nor shall the State operate a
2 project on behalf of a project party."

3 PART II

4 SECTION 9. The purpose of this part is to provide an
5 exemption from the State's procurement code for special facility
6 revenue bonds for special facilities acquired, constructed,
7 improved, and developed by the high technology development
8 corporation solely for use by another party.

9 SECTION 10. Section 206M-42, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§206M-42 Powers.** In addition to any other powers granted
12 to the development corporation by law, the development
13 corporation may:

14 (1) ~~[With]~~ Without compliance with chapter 103D, but with
15 the approval of the governor, enter into a special
16 facility lease or an amendment or supplement thereto
17 whereby the development corporation agrees to acquire,
18 construct, improve, install, equip, and develop a
19 special facility solely for the use by another party
20 to a special facility lease;

21 (2) With the approval of the governor, issue special
22 facility revenue bonds in principal amounts that may

1 be necessary to yield the amount of the cost of any
2 acquisition, construction, improvement, installation,
3 equipping, and development of any special facility,
4 including, subject to paragraph (6), the costs of
5 acquisition of the site thereof; provided that the
6 total principal amount of the special facility revenue
7 bonds which may be issued pursuant to the
8 authorization of this section shall not exceed
9 \$100,000,000;

10 (3) With the approval of the governor, issue refunding
11 special facility revenue bonds with which to provide
12 for the payment of outstanding special facility
13 revenue bonds (including any special facility revenue
14 bonds theretofore issued for this refunding purpose)
15 or any part thereof; provided any issuance of
16 refunding special facility revenue bonds shall not
17 reduce the principal amount of the bonds that may be
18 issued as provided in paragraph (2);

19 (4) Perform and carry out the terms and provisions of any
20 special facility lease;

21 (5) Notwithstanding section 103-7 or any other law to the
22 contrary, acquire, construct, improve, install, equip,



1 or develop any special facility, or accept the
 2 assignment of any contract therefor entered into by
 3 the other party to the special facility lease;
 4 (6) Construct any special facility on land owned by the
 5 State; provided that no funds derived herein shall be
 6 expended for land acquisition; and
 7 (7) Agree with the other party to the special facility
 8 lease whereby any acquisition, construction,
 9 improvement, installation, equipping, or development
 10 of the special facility and the expenditure of moneys
 11 therefor shall be undertaken or supervised by another
 12 person."

PART III

14 SECTION 11. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 12. This Act shall take effect upon its approval.

Report Title:

Procurement Code

Description:

Restores procurement code exemption for special purpose revenue bonds. Provides procurement code exemption for special facility revenue bonds issued by the High Technology Development Corporation. Effective upon approval. (CD1)

