
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 Investment 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 INVESTMENT PARTNERSHIP CORPORATION

6 § -1 The Hawaii investment partnership corporation;
7 established; purpose. (a) There is established the Hawaii
8 investment partnership corporation, which shall be a public body
9 corporate and politic and an instrumentality and agency of the
10 State. The corporation shall be placed within the department of
11 budget and 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 investment 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 investment partnership corporation.

14 "Corporation" means the Hawaii investment 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 finance shall serve as an ex
14 officio nonvoting member. No voting member shall be an employee
15 of the State during the member's term of office on the board.

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



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

3 (B) Costs to administer the venture capital
4 investment program; and

5 (C) Costs to provide funded projects with technical
6 business support.

7 § -5 **Research and development grant program.** The
8 corporation shall establish a research and development grant
9 program to provide seed capital to develop a commercially viable
10 new idea for a product or service in the fields of advanced
11 technology, life sciences, or renewable energy. Grants shall be
12 awarded to Hawaii-based enterprises through a competitive
13 process and reviewed by technical advisory committees with
14 subject matter expertise. Criteria for the award of grants
15 shall include:

- 16 (1) A market need for the product or service;
17 (2) Commercial viability;
18 (3) Development timeline;
19 (4) Ability to receive matching funding from other
20 sources; and
21 (5) Potential to return, within seven years, revenue or
22 profit sharing, royalties, license fees, or other



1 income equal to three times the amount of the initial
2 grant, and to provide high-paying jobs for residents.
3 The technical advisory committees shall make recommendations to
4 the board on grant awards, which shall be approved by a majority
5 of the quorum of the board or rejected by a two-thirds majority
6 of the board. Grants shall not exceed \$250,000 for a project.
7 No additional funding shall be awarded except upon demonstrated
8 progress toward product development and commercial success.

9 **§ -6 Venture capital investment program.** The
10 corporation shall establish a venture capital investment program
11 to fund Hawaii-based enterprises with economic development
12 projects that require seed capital to achieve commercial
13 success. The board shall select professional investors who
14 manage venture capital investment programs through a competitive
15 process and may use technical advisors to evaluate the
16 proposals. Criteria for selection of professional investors
17 shall include:

- 18 (1) A demonstrated ability to provide matching funds for
19 venture capital or private equity investments in
20 Hawaii;
- 21 (2) Having a principal place of business and substantial
22 operations in Hawaii;



- 1 (3) Providing high-paying jobs for Hawaii residents;
- 2 (4) The potential to provide significant returns on
- 3 investments; and
- 4 (5) Relevant professional expertise, experience,
- 5 understanding, and commitment necessary to address the
- 6 capital formation and funding needs of Hawaii's
- 7 emerging growth enterprises involved in advanced
- 8 technology, life sciences, and renewable energy.

9 § -7 **Duty to invest the corpus of the Hawaii investment**

10 **partnership special fund.** The professional investor selected by

11 the board shall invest and manage the corpus of the Hawaii

12 investment partnership special fund. The investment of the

13 corpus shall be in low-risk qualified securities as described in

14 section 36-21, to preserve the corpus while providing a

15 reasonable rate of return on the investment to fund the research

16 and development grant and venture capital investment programs.

17 To the extent possible, the professional investor shall have a

18 principal place of business and substantial operations in Hawaii

19 and provide high-paying jobs to Hawaii's residents.

20 § -8 **Powers of corporation.** (a) The corporation shall

21 have all powers necessary to carry out its purposes, which shall

22 include the power to:



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



- 1 (8) Acquire, hold, and sell qualified securities;
- 2 (9) Accept donations, grants, bequests, and devises of
- 3 money, property, service, or other things of value
- 4 that may be received from the United States or any
- 5 agency thereof, any governmental agency, or any public
- 6 or private institution, person, firm, or corporation,
- 7 to be held, used, or applied for any or all of the
- 8 purposes specified in this chapter. Receipt of each
- 9 donation or grant shall be detailed in the annual
- 10 report of the corporation. The report shall include
- 11 the identity of the donor or lender, the nature of the
- 12 transaction, and any conditions attaching thereto;
- 13 (10) Acquire, own, hold, dispose of, and encumber personal
- 14 property of any nature or any interest therein;
- 15 (11) Enter into agreements or other transactions with any
- 16 federal, state, or county agency;
- 17 (12) Make contracts and execute all instruments necessary
- 18 or convenient for the carrying on of its business;
- 19 (13) Appear in its own behalf before state, county, or
- 20 federal agencies;
- 21 (14) Procure insurance as may be necessary;



1 (15) Appoint officers, employees, consultants, agents, and
2 advisors, who shall not be subject to chapter 76, and
3 prescribe their duties and fix their compensation
4 within the limitations provided by law;

5 (16) Appoint technical advisors or advisory committees as
6 deemed necessary; and

7 (17) Exercise any other powers of a corporation organized
8 under the laws of the State.

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

11 **§ -9 Contracts for services necessary for management and**
12 **operation of the corporation.** The corporation may contract with
13 others, public or private, for the provision of all or a portion
14 of the services necessary for the management and operation of
15 the corporation. The corporation shall have the power to use
16 all appropriations, grants, contractual reimbursements, and all
17 other funds not appropriated for a designated purpose to pay for
18 the proper general expenses and to carry out the purposes of the
19 corporation. The corporation shall adopt procedures for
20 competitive selection of contractors as required under this
21 chapter and shall not be subject to the state procurement code
22 under chapter 103D.



1 **§ -10 Meetings of the board.** (a) The meetings of the
2 board shall be open to the public as provided in section 92-3;
3 provided that when it is necessary for the board to receive
4 information that is proprietary to a particular enterprise the
5 disclosure of which might be harmful to the business interests
6 of the enterprise, the board may enter into an executive meeting
7 that is closed to the public.

8 (b) The board shall be subject to the procedural
9 requirements of section 92-4; provided that this authorization
10 to hold closed meetings in accordance with subsection (a) shall
11 be in addition to the exceptions listed in section 92-5, to
12 enable the corporation to respect the proprietary requirements
13 of enterprises with which it has business dealings.

14 **§ -11 Confidentiality of trade secrets or the like;**
15 **disclosure of financial information.** Notwithstanding chapters
16 92, 92F, or any other law to the contrary, any documents or data
17 made or received by any member or employee of the corporation,
18 to the extent that the material or data consist of trade
19 secrets, commercial or financial information regarding the
20 operation of any business conducted by an applicant for, or
21 recipient of, any form of assistance that the corporation is
22 empowered to render, or regarding the competitive position of an



1 applicant in a particular field of endeavor, shall not be a
2 government record; provided that if the corporation purchases a
3 qualified security from an applicant, the commercial and
4 financial information, excluding confidential business
5 information, shall be deemed to become a government record of
6 the corporation. If the information is made or received by any
7 member or employee of the corporation after the purchase of the
8 qualified security, it shall become a government record three
9 years from the date the information was made or received. Any
10 discussion or consideration of trade secrets or commercial or
11 financial information shall be held by the board, or any
12 subcommittee of the board, in executive sessions closed to the
13 public; provided that the purpose of any such executive session
14 shall be set forth in the official minutes of the corporation,
15 and business that is not related to that purpose shall not be
16 transacted, nor shall any vote be taken during the executive
17 sessions.

18 **§ -12 Limitation on liability.** Chapters 661 and 662 or
19 any other law to the contrary notwithstanding, nothing in this
20 chapter shall create an obligation, debt, claim, cause of
21 action, claim for relief, charge, or any other liability of any
22 kind whatsoever in favor of any person or entity, without regard



1 to whether that person or entity receives any benefits under
2 this chapter, against the State or its officers and employees.
3 The State and its officers and employees shall not be liable for
4 the results of any investment, purchase of securities, loan, or
5 other assistance provided pursuant to this chapter. Nothing in
6 this chapter shall be construed as authorizing any claim against
7 the corporation in excess of any note, loan, or other specific
8 indebtedness incurred by the corporation or in excess of any
9 insurance policy acquired for the corporation or its employees.

10 **§ -13 Annual report.** The corporation shall submit a
11 complete and detailed report of the corporation's activities to
12 the legislature not later than twenty days before the convening
13 of the regular session of 2008, and every year thereafter.

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

17 SECTION 4. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$100,000,000 to be
19 deposited into the Hawaii investment partnership special fund.

20 SECTION 5. There is appropriated out of the Hawaii
21 investment partnership special fund the sum of \$100,000,000, or



1 so much thereof as may be necessary for fiscal year 2007-2008 to
2 be used for the purposes of this Act.

3 The sum appropriated shall be expended by the Hawaii
4 investment partnership corporation for the purposes of this Act.

5 SECTION 6. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of the amount equal to
7 one-half of one per cent of the general revenues of the State in
8 the state treasury on June 30, 2008 to be deposited into the
9 Hawaii investment partnership special fund.

10 SECTION 7. This Act shall take effect on July 1, 2007;
11 provided that section 6 shall take effect on July 1, 2008

12

INTRODUCED BY:

Calvin H. Aoy
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JAN 22 2007



Report Title:

Hawaii Investment Partnership Corporation

Description:

Establishes the Hawaii Investment Partnership Corporation to provide research and development grants and to invest in enterprises in advanced technology, life sciences, and renewable energy fields.

