
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 also finds that

8 emerging Hawaii-based entrepreneurs in the fields of advanced

9 technology, life sciences, and renewable energy, represent the

10 future for Hawaii. These types of enterprises are poised at the

11 earliest stages of product development and need public financial

12 support to move to the next level on the road to commercial

13 success.

14 The purpose of this Act is to aggressively jump-start a new

15 economy in Hawaii based on advanced technology, life sciences,

16 and renewable energy by establishing a \$100,000,000 fund to

17 invest in these entrepreneurial ventures.



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

4 "CHAPTER

5 THE HAWAII INNOVATIONS PARTNERSHIP CORPORATION

6 § -1 Definitions. As used in this chapter, unless the
7 context requires otherwise:

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

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

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

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

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

21 "Enterprise" means a person with a primary place of
22 business in Hawaii that is engaged in activities relating to the



1 commercial development of a product or service in the fields of
2 advanced technology, life sciences, or renewable energy.

3 "Life sciences" means biology, cancer research, community
4 health care, ocean sciences, agriculture, pharmacology,
5 biotechnology, medical technology, or related fields.

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

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

18 "Qualified security" means any note, stock, treasury stock
19 bond, debenture, evidence of indebtedness, certificate of
20 interest or participation in any profit-sharing agreement,
21 preorganization certificate of subscription, transferable share,
22 investment contract, certificate of deposit for a security,



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

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

15 "Seed capital" means:

- 16 (1) Financing provided for the earliest stage of business
17 development that enables a project or idea to develop
18 into a business;
- 19 (2) Equity or loan capital provided for a new or existing
20 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 **§ -2 The Hawaii innovations partnership corporation;**

21 **established; purpose.** (a) There is established the Hawaii
22 innovations partnership corporation, which shall be a public



1 body corporate and politic and an instrumentality and agency of
2 the State. The corporation shall be placed within the
3 department of budget and finance for administrative purposes
4 only.

5 (b) The purpose of the corporation shall be to:

- 6 (1) Stimulate economic development in Hawaii in the fields
7 of advanced technology, life sciences, and renewable
8 energy through research and development grants for
9 commercially viable products and services;
- 10 (2) Provide seed capital for entrepreneurial ventures to
11 assist the enterprise toward commercial success;
- 12 (3) Provide business and technical support for funded
13 enterprises to achieve commercial success and
14 independent capitalization;
- 15 (4) Promote high quality, high-income job opportunities
16 for Hawaii's residents and graduates of Hawaii's
17 educational institutions; and
- 18 (5) Manage and preserve the Hawaii innovations partnership
19 special fund to ensure stable funding for projects.

20 **§ -3 Board of directors.** (a) The corporation shall be
21 governed by a board of directors consisting of seven voting



1 members to be appointed by the governor for staggered terms

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

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

20 (c) Members shall serve without compensation but may be
21 reimbursed for expenses, including travel expenses, incurred in
22 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 member shall not participate in any corporation
6 decision to invest in, purchase from, sell to, borrow from, loan
7 to, contract with, or otherwise deal with any person with whom
8 or entity in which the board member has a substantial financial
9 interest.

10 (f) Decisions shall be made by majority vote of a quorum;
11 provided that decisions to reject recommendations from technical
12 advisory committees relating to research and development grants
13 shall be made based on a two-thirds majority vote of the board.
14 A quorum shall consist of four members.

15 **§ -4 Funds.** There are established the following
16 revolving funds in the state treasury to be administered by the
17 corporation:

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 balance
9 of this fund shall not be reduced below \$,
10 except by prior authorization of the legislature;

11 (2) The Hawaii innovations partnership research and
12 development fund. Subject to legislative
13 appropriation, the board may transfer from the Hawaii
14 innovations partnership special fund to the Hawaii
15 innovations partnership research and development fund
16 up to \$10,000,000 for the first year of operation and
17 thereafter for each year an amount not to exceed four
18 per cent of the fiscal year-end balance of the Hawaii
19 innovations partnership special fund. Funds from the
20 Hawaii innovations partnership research and
21 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 balance of the Hawaii innovations partnership special
20 fund, whichever is greater; provided that the balance
21 shall not be reduced below \$. Moneys from the



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

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

5 (B) Costs of administering the venture capital
6 investment program; and

7 (C) Costs of providing 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) Development timeline;

21 (4) Ability to receive matching funding from other
22 sources; and



1 (5) Potential to return, within seven years, revenue or
2 profit sharing, royalties, license fees, or other
3 income equal to three times the amount of the initial
4 grant, and to provide high-paying jobs for residents.
5 The technical advisory committees shall make recommendations to
6 the board on grant awards, which shall be approved by a majority
7 vote of a quorum of the board or rejected by a two-thirds
8 majority of the board. Grants shall not exceed \$250,000 for a
9 project. No additional funding shall be awarded except upon
10 demonstrated progress toward product development and commercial
11 success.

12 **§ -6 Venture capital investment program.** The
13 corporation shall establish a venture capital investment program
14 to fund Hawaii-based enterprises with economic development
15 projects that require seed capital to achieve commercial
16 success. The board shall select professional investors who
17 manage venture capital investment programs through a competitive
18 process and may use technical advisors to evaluate the
19 proposals. Criteria for selection of professional investors
20 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 moneys of the Hawaii innovations**
15 **partnership special fund.** The professional investor selected by
16 the board shall invest and manage the Hawaii innovations
17 partnership special fund. The investment shall be in low-risk
18 qualified securities as described in section 36-21, to preserve
19 the fund while providing a reasonable rate of return on the
20 investment to fund the research and development grant and
21 venture capital investment programs. To the extent possible,
22 the professional investor shall have a principal place of



1 business and substantial operations in Hawaii and provide high-
2 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, including
5 the power to:

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



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



1 (12) Make contracts and execute all instruments necessary
2 or convenient for the carrying on of its business;

3 (13) Appear in its own behalf before state, county, or
4 federal agencies;

5 (14) Procure insurance as may be necessary;

6 (15) Appoint officers, employees, consultants, agents, and
7 advisors, who shall not be subject to chapter 76, and
8 prescribe their duties and fix their compensation
9 within the limitations provided by law;

10 (16) Appoint technical advisors or advisory committees as
11 deemed necessary; and

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

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

16 **§ -9 Contracts for services necessary for management and**
17 **operation of corporation.** The corporation may contract with
18 others, public or private, for the provision of all or a portion
19 of the services necessary for the management and operation of
20 the corporation. The corporation shall have the power to use
21 all appropriations, grants, contractual reimbursements, and all
22 other funds not appropriated for a designated purpose to pay for



1 the proper general expenses and to carry out the purposes of the
2 corporation. The corporation shall adopt procedures for
3 competitive selection of contractors as required under this
4 chapter and shall not be subject to the state procurement code
5 under chapter 103D.

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

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

19 **§ -11 Confidentiality of trade secrets or the like;**
20 **disclosure of financial information.** Notwithstanding chapters
21 92, 92F, or any other law to the contrary, any documents or data
22 made or received by any member or employee of the corporation,



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



1 **§ -12 Limitation on liability.** Chapters 661 and 662 or
2 any other law to the contrary notwithstanding, nothing in this
3 chapter shall create an obligation, debt, claim, cause of
4 action, claim for relief, charge, or any other liability of any
5 kind whatsoever in favor of any person or entity, without regard
6 to whether that person or entity receives any benefits under
7 this chapter, against the State or its officers and employees.
8 The State and its officers and employees shall not be liable for
9 the results of any investment, purchase of securities, loan, or
10 other assistance provided pursuant to this chapter. Nothing in
11 this chapter shall be construed as authorizing any claim against
12 the corporation in excess of any note, loan, or other specific
13 indebtedness incurred by the corporation or in excess of any
14 insurance policy acquired for the corporation or its employees.

15 **§ -13 Annual report.** The corporation shall submit a
16 complete and detailed report of the corporation's activities to
17 the legislature not later than twenty days before the convening
18 of the regular session of 2008, and every year thereafter.

19 **§ -14 Audit.** Commencing with the second year of
20 operation, the auditor shall conduct annual audits of the
21 corporation."



1 SECTION 4. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$100,000,000 or so
3 much thereof as may be necessary for fiscal year 2007-2008 to be
4 deposited into the Hawaii innovations partnership special fund.

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 2007-2008 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 the amount equal to
14 one-half of one per cent of the general revenues of the State
15 collected in fiscal year 2007-2008 to be deposited into the
16 Hawaii innovations partnership special fund.

17 SECTION 7. There is appropriated out of the Hawaii
18 innovations partnership special fund the sum of the amount equal
19 to one-half of one per cent of the general revenues of the State
20 collected in fiscal year 2007-2008 or so much thereof as may be
21 necessary for fiscal year 2007-2008 to be used for the purposes
22 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 the amount equal to
6 one-half of one per cent of the general revenues of the State
7 collected in fiscal year 2008-2009 to be deposited into the
8 Hawaii innovations partnership special fund.

9 SECTION 9. There is appropriated out of the Hawaii
10 innovations partnership special fund the sum of the amount equal
11 to one-half of one per cent of the general revenues of the State
12 collected in fiscal year 2008-2009 or so much thereof as may be
13 necessary for fiscal year 2008-2009 to be used for the purposes
14 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 the amount equal to
20 one-half of one per cent of the general revenues of the State
21 collected in fiscal year 2009-2010 to be deposited into the
22 Hawaii innovations partnership special fund.



1 SECTION 11. There is appropriated out of the Hawaii
2 innovations partnership special fund the sum of the amount equal
3 to one-half of one per cent of the general revenues of the State
4 collected in fiscal year 2009-2010 to be used for the purposes
5 of this Act.

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

9 SECTION 12. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of the amount equal to
11 one-half of one per cent of the general revenues of the State
12 collected in fiscal year 2010-2011 to be deposited into the
13 Hawaii innovations partnership special fund.

14 SECTION 13. There is appropriated out of the Hawaii
15 innovations partnership special fund the sum of the amount equal
16 to one-half of one per cent of the general revenues of the State
17 collected in fiscal year 2010-2011 or so much thereof as may be
18 necessary for fiscal year 2010-2011 to be used for the purposes
19 of this Act.

20 The sum appropriated shall be expended by the Hawaii
21 innovations partnership corporation for the purposes of this
22 Act.



1 SECTION 14. This Act shall take effect on July 1, 2034.



Report Title:

Innovations Research and Development; Capital Investments

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. (HB338 HD1)

