

JAN 22 2007

A BILL FOR AN ACT

RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.

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

1 SECTION 1. Chapter 10, Hawaii Revised Statutes, is amended
2 by adding a new section to part II to be appropriately
3 designated and to read as follows:

4 "§10- Support facility for variable rate revenue bonds.

5 If revenue bonds issued pursuant to this chapter are issued
6 bearing interest at a rate or rates that vary from time to time
7 or with a right of holders to tender the revenue bonds for
8 purchase, or both, the board may contract for such support
9 facility or facilities and remarketing arrangements as are
10 required to market the revenue bonds to the greatest advantage
11 of the board and the office upon such terms and conditions as
12 the board deems necessary and proper.

13 The board may enter into contracts or agreements with the
14 entity or entities providing a support facility; provided that
15 any contract or agreement shall provide, in essence, that any
16 amount due and owing by the board under the contract or
17 agreement on an annual basis shall be payable from the revenue
18 of the office; provided further that any obligation issued or



1 arising pursuant to the terms of the contract or agreement in
2 the form of revenue bonds, notes, or other evidences of
3 indebtedness shall only arise at such time as either:

4 (1) Moneys or securities have been irrevocably set aside
5 for the full payment of a like principal amount of
6 revenue bonds issued pursuant to this chapter; or

7 (2) A like principal amount of the issue or series of
8 revenue bonds to which the support facility relates
9 are held in escrow by the entity or entities providing
10 the support facility."

11 SECTION 2. Section 10-4, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§10-4 **Office of Hawaiian affairs; established; general**
14 **powers.** There shall be an office of Hawaiian affairs
15 constituted as a body corporate which shall be a separate entity
16 independent of the executive branch. The office, under the
17 direction of the board of trustees, shall have the following
18 general powers:

19 (1) To adopt, amend, and repeal bylaws governing the
20 conduct of its business and the performance of the
21 powers and duties granted to or imposed upon it by
22 law;



1 (2) To acquire in any lawful manner any property, real,
2 personal, or mixed, tangible or intangible, or any
3 interest therein; to hold, maintain, use, and operate
4 the same; and to sell, lease, or otherwise dispose of
5 the same at such time, in such manner and to the
6 extent necessary or appropriate to carry out its
7 purpose;

8 (3) To determine the character of and the necessity for
9 its obligations and expenditures, and the manner in
10 which they shall be incurred, allowed, and paid,
11 subject to provisions of law specifically applicable
12 to the office of Hawaiian affairs;

13 (4) To enter into and perform such contracts, leases,
14 cooperative agreements, or other transactions with any
15 agency or instrumentality of the United States, or
16 with the State, or with any political subdivision
17 thereof, or with any person, firm, association, or
18 corporation, as may be necessary in the conduct of its
19 business and on such terms as it may deem appropriate;

20 (5) To execute, in accordance with its bylaws, all
21 instruments necessary or appropriate in the exercise
22 of any of its powers;



- 1 (6) To issue revenue bonds pursuant to this chapter [~~in~~
2 ~~such principal amounts as may be authorized from time~~
3 ~~to time by law~~] to finance the cost of an office
4 project [~~as authorized by law~~] and to provide for the
5 security thereof [~~as permitted by this chapter,~~] in
6 the manner and pursuant to the procedure prescribed in
7 part II;
- 8 (7) To lend or otherwise apply the proceeds of the bonds
9 issued for an office project either directly or
10 through a trustee or a qualified person for use and
11 application in the acquisition, construction,
12 installation, or modification of an office project, or
13 agree with the qualified person whereby any of these
14 activities shall be undertaken or supervised by that
15 qualified person or by a person designated by the
16 qualified person;
- 17 (8) With or without terminating a project agreement, to
18 exercise any and all rights provided by law for entry
19 and re-entry upon or to take possession of an office
20 project at any time or from time to time upon breach
21 or default by a qualified person under a project
22 agreement, including any action at law or in equity



1 for the purpose of effecting its rights of entry or
2 re-entry or obtaining possession of the project or for
3 the payments of rentals, user taxes, or charges, or
4 any other sum due and payable by the qualified person
5 to the office pursuant to the project agreement; and
6 (9) To take such actions as may be necessary or
7 appropriate to carry out the powers conferred upon it
8 by law."

9 SECTION 3. Section 10-22, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[~~+~~§10-22[+] **Powers of the board.** In addition to the
12 powers which it now possesses, the board shall have power to:

13 (1) Prescribe and collect rents, fees, and charges for the
14 use of or services furnished by any office project or
15 the facilities thereof;

16 (2) [~~Issue~~] Without further authorization or approval,
17 issue and authorize revenue bonds under this chapter
18 in such principal amount as may be required to finance
19 in whole or in part the cost of construction or
20 maintenance, or both, of any office project[+],
21 including reserves therefor;



1 (3) Pledge to the punctual payment of such revenue bonds
2 and interest thereon, the revenue of the office
3 project or projects for the construction or
4 maintenance of which the bonds have been issued, or
5 the [~~office's revenue~~] revenues of the office, or
6 both, in an amount sufficient to pay such bonds and
7 interest as the same become due and to create and
8 maintain reasonable reserves therefor; and

9 (4) Advance such moneys of the office, not otherwise
10 required, as are necessary to pay the expenses
11 incurred in making the preparations for the initial
12 issuance of revenue bonds under this part, and to take
13 any other action necessary or proper for carrying into
14 execution and administering this part, including
15 providing for the full utilization of office projects
16 in every way conducive to the furtherance of any or
17 all purposes of the office."

18 SECTION 4. Section 10-25, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+]§10-25[+] **Revenue bonds.** (a) Revenue bonds shall be
21 issued in the name of the board, may be in one or more series,
22 may be in the denomination or denominations, may bear such date



1 or dates, may mature at such time or times not exceeding fifty
2 years from their respective dates, may [be] bear interest at
3 such rate or rates payable at such time or times and at such
4 place or places within or without the State, may carry such
5 registration privileges as to principal alone or as to both
6 principal and interest, may be subject to such terms or
7 redemption with or without premium, may be executed in such
8 manner, may contain such terms, covenants, and conditions, and
9 may be in such form[~~, either coupon or registered with privilege~~
10 ~~of exchange from one form to another,~~] as the resolution
11 authorizing the issuance of the bonds, or subsequent resolutions
12 may provide.

13 ~~[Revenue bonds may be sold at private sale to the United~~
14 ~~States, or any agency, instrumentality, or corporation thereof,~~
15 ~~to the State or any political subdivision, agency,~~
16 ~~instrumentality, or corporation thereof, or to any person or~~
17 ~~group of persons offering to purchase all or a major portion of~~
18 ~~a particular issue or series. Unless sold at private sale as~~
19 ~~herein provided, revenue bonds shall be sold at public sale~~
20 ~~after publication of a notice of such sale at least once, the~~
21 ~~date of publication to be at least five days prior to the date~~
22 ~~of the sale, and the publication shall be made in a newspaper~~



1 ~~published and of general circulation in the State and in a~~
2 ~~financial newspaper published in either of the cities of New~~
3 ~~York, Chicago, or San Francisco. The revenue bonds shall be~~
4 ~~sold for not less than ninety-eight per cent of the principal~~
5 ~~amount thereof. Pending the preparation of definitive revenue~~
6 ~~bonds, interim receipts or temporary bonds may be issued and~~
7 ~~delivered to the purchasers of the bonds in such form and~~
8 ~~containing such provisions as the board may determine. Revenue~~
9 ~~bonds, interim receipts, and temporary bonds shall be fully~~
10 ~~negotiable within the meaning of and for all the purposes of the~~
11 ~~Uniform Commercial Code, chapter 490.~~

12 ~~It shall be legal for the State and any of its political~~
13 ~~subdivisions, or any political or public corporation, including~~
14 ~~the employees' retirement system of the State or any~~
15 ~~instrumentality of the State or any insurance company or~~
16 ~~building and loan association, or any savings bank or trust~~
17 ~~company, or any bank or other financial institution operating~~
18 ~~under the laws of this State, or for any personal~~
19 ~~representative, guardian, trustee, or other fiduciary, or any~~
20 ~~educational, charitable, or eleemosynary institution, to invest~~
21 ~~their funds, and moneys in their custody in revenue bonds issued~~
22 ~~under this part.]~~



1 (b) The board may acquire such policies of insurance and
2 enter into such banking arrangements upon such terms and
3 conditions as the board may deem necessary or desirable, at the
4 time of delivery of an issue of revenue bonds or such later date
5 as the board deems in the best interest of the office, including
6 without limitation, contracting for a support facility or
7 facilities as permitted in section 10- , and contracting for
8 interest rate swaps, swaptions, interest rate floors, and other
9 similar contracts to hedge or reduce the amount or duration of
10 payment, rate, spread, or similar risk or to reduce the cost of
11 borrowing when used in conjunction with revenue bonds issued
12 pursuant to this chapter.

13 (c) The board may make such arrangements as may be
14 necessary or proper for the sale of each issue of revenue bonds
15 or part thereof as are issued pursuant to this chapter,
16 including, without limitation, arranging for the preparation and
17 printing of the revenue bonds, the official statement, and any
18 other documents or instruments deemed required for the issuance
19 and sale of revenue bonds and retaining such financial,
20 accounting, and legal consultants, all upon such terms and
21 conditions as the board deems advisable and in the best interest
22 of the State and the office. The board may offer the revenue



1 bonds at competitive sale or may negotiate the sale of the
2 revenue bonds to any person or group of persons, to the United
3 States of America, or any board, agency, instrumentality, or
4 corporation thereof, to the employees retirement system of the
5 State, to any political subdivision of the State, or to any
6 board, agency, instrumentality, public corporation, or other
7 governmental organization of the State or of any political
8 subdivision thereof.

9 The sale of the revenue bonds by the board by negotiation
10 shall be at such price or prices, and upon such terms and
11 conditions, and the revenue bonds shall bear interest at such
12 rate or rates or such varying rates determined from time to time
13 in the manner, as the board shall approve.

14 The sale of the revenue bonds by the board at competitive
15 sale shall be at such price or prices and upon such terms and
16 conditions, and the revenue bonds shall bear interest at such
17 rate or rates or such varying rates determined from time to time
18 in the manner as specified by the successful bidder. The
19 revenue bonds shall be sold in the manner provided in section
20 39-55.

21 (d) The board may delegate the responsibility for the sale
22 and the fixing of the terms and details of revenue bonds and



1 such other determinations or actions as may be provided by
2 resolution of the board, to the chairperson of the board, the
3 administrator, or another designated officer.

4 (e) All public officers and bodies of the State, all
5 political subdivisions, all insurance companies and
6 associations, all banks, savings banks, and savings
7 institutions, including building or savings and loan
8 associations, all credit unions, all trust companies, all
9 personal representatives, guardians, trustees, and all other
10 persons and fiduciaries in the State who are regulated by law as
11 to the character of their investment, may legally invest funds
12 within their control and available for investment in revenue
13 bonds issued under this chapter. The purpose of this subsection
14 is to authorize any person, firm, corporation, association,
15 political subdivision, body, or officer, public or private, to
16 use any funds owned or controlled by them, including (without
17 prejudice to the generality of the foregoing), sinking,
18 insurance, investment, retirement, compensation, pension, trust
19 funds, and funds held on deposit, for the purchase of any
20 revenue bonds issued under this chapter."

21 SECTION 5. Section 10-28, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~[†]§10-28[†]~~ **Validity of bonds.** Revenue bonds issued
2 under this part shall bear the manual signatures of the
3 chairperson of the board and the administrator, ~~[either of which~~
4 ~~signatures may be a lithographed or engraved facsimile of the~~
5 ~~signature provided that at least one of the signatures is a~~
6 ~~manual signature,~~] and shall be sealed with the seal of the
7 board or in lieu thereof shall bear a lithographed or engraved
8 facsimile of such seal. ~~[The coupons pertaining to the revenue~~
9 ~~bonds shall be executed with the lithographed or engraved~~
10 ~~facsimile signatures of the chairperson of the board and the~~
11 ~~administrator.]~~ If the board shall have designated a registrar
12 other than itself for the revenue bonds, the resolution
13 authorizing the revenue bonds may provide that none of the
14 revenue bonds shall be valid or obligatory for any purpose
15 unless authenticated by the registrar. If the resolution so
16 provides, then all signatures of the board upon the revenue
17 bonds may be facsimiles of the signatures, and the revenue bonds
18 shall be valid and obligatory only if authenticated by the
19 manual signature of an authorized officer or signatory of the
20 registrar. Revenue bonds bearing the signature of officers in
21 office at the date of the signing thereof shall be valid and
22 binding obligations, notwithstanding that before the delivery



1 thereof and payment therefor any or all of the persons whose
2 signatures appear thereon shall have ceased to be officers. The
3 validity of the bonds shall not be dependent on nor affected by
4 the validity or regularity of any proceedings relating to the
5 construction or maintenance of the office project or projects
6 for which the bonds were issued. The resolution authorizing the
7 issuance of revenue bonds may provide that the bonds shall
8 contain a recital that they are issued pursuant to this part,
9 which recital shall be conclusive evidence of their validity and
10 of the regularity of their issuance."

11 SECTION 6. Section 10-30, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+]§10-30[+] **Payment and security of revenue bonds;**
14 **revenue bonds not a debt of the State.** Revenue bonds issued
15 under this part shall be payable [~~solely~~] from and secured
16 [~~solely~~] by the revenues of the office project or projects or
17 office pledged to the payment thereof, or both, and such
18 revenues shall be applied to such payment in accordance with the
19 provisions of this part and the resolution or resolutions
20 authorizing the issuance of the revenue bonds. No holder or
21 holders of any revenue bonds issued under this part shall have
22 the right to compel any exercise of the taxing power of the



1 State to pay such bonds, or interest thereon. Each revenue bond
2 shall recite in substance that the revenue bond, including
3 interest thereon, is payable [~~solely~~] from and secured [~~solely~~]
4 by the revenue pledged to the payment thereof, and that the bond
5 does not constitute [~~a~~] a general or moral obligation or
6 indebtedness of the State within the meaning of any limitation
7 of law."

8 SECTION 7. Section 10-31, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~+~~]**§10-31**[~~+~~] **Office of Hawaiian affairs projects to be**
11 **self-supporting.** The board shall impose and collect rates,
12 rents, fees, and charges for the use or enjoyment and services
13 [~~of the facilities of each office project~~], or direct the
14 allocation of the revenues of the office, and shall revise such
15 rates, rents, fees, and charges from time to time whenever
16 necessary, so that [~~all office projects shall be self-~~
17 ~~supporting. The rates, rents, fees, and charges prescribed~~] in
18 aggregate, the revenue of the office project and the office
19 shall be such as will produce revenue at least sufficient to:

20 (1) Pay the cost of maintenance of the office project or
21 projects, including reserves therefor;



1 (2) Pay when due all bonds and interest thereon, for the
2 payment of which the revenue is or has been pledged,
3 charged, or otherwise encumbered, including reserves
4 therefor;

5 (3) Reimburse the general fund of the State for any bond
6 requirements on general obligation bonds issued for an
7 office project or projects to the extent required by
8 law; and

9 (4) Carry out all covenants and provisions of the
10 resolution or resolutions authorizing the issuance of
11 revenue bonds.

12 Neither this section nor any other section of this part
13 shall preclude the making of appropriations to the board, the
14 acceptance of gifts by the board, or the use of revenues of the
15 office or other funds derived from the sale of stocks, bonds, or
16 other assets in the possession of the board to pay all or part
17 of the costs of construction, of maintenance, or both, of any or
18 all office projects.

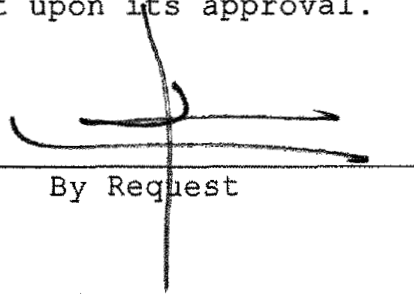
19 All moneys received pursuant to this section shall be
20 administered as trust funds, as provided by this chapter, and in
21 separate accounts designated for each office project."



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect upon its approval.
4

INTRODUCED BY:


By Request



Report Title:

Office of Hawaiian Affairs

Description:

Clarifies and strengthens the ability of the office of Hawaiian affairs to issue bonds.

