

JAN 19 2007

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 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 INNOVATIONS PARTNERSHIP CORPORATION

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

13 (b) The purpose of this corporation shall be to:

14 (1) Stimulate economic development in the fields of
15 advanced technology, life sciences, and renewable
16 energy in Hawaii through research and development
17 grants for commercially viable products and services;

18 (2) Provide seed capital investment for entrepreneurial
19 ventures to assist the enterprise toward commercial
20 success;



- 1 (3) Provide business technical support for funded
- 2 enterprises to achieve commercial success and
- 3 independent capitalization;
- 4 (4) Promote high quality, high-income job opportunities
- 5 for Hawaii's residents and graduates of Hawaii's
- 6 educational institutions; and
- 7 (5) Manage the Hawaii innovations partnership special fund
- 8 to ensure stable funding for projects and preserve the
- 9 fund.

10 § -2 **Definitions.** As used in this chapter, unless the

11 context requires otherwise:

12 "Advanced technology" means new and emerging technology in

13 digital media, telecommunications, sensor and optic technology,

14 and information technologies.

15 "Board" means the board of directors of the Hawaii

16 innovations partnership corporation.

17 "Corporation" means the Hawaii innovations partnership

18 corporation.

19 "Direct investment" means an investment by the corporation

20 in qualified securities of an enterprise to provide capital to

21 the enterprise.



1 "Economic development project" means a commercially viable
2 endeavor related to advanced technology, life sciences, and
3 renewable energy.

4 "Enterprise" means a person with a primary place of
5 business in Hawaii that is engaged in activities relating to the
6 commercial development of a product or service in the fields of
7 advanced technology, life sciences, or renewable energy.

8 "Life sciences" means biology, cancer research, community
9 health care, ocean sciences, agriculture, pharmacology,
10 biotechnology, medical technology, or related fields.

11 "Person" means a sole proprietorship, partnership, joint
12 venture, corporation, or other association of persons organized
13 for commercial or industrial purposes.

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



1 "Qualified security" means any note, stock, treasury stock
2 bond, debenture, evidence of indebtedness, certificate of
3 interest or participation in any profit-sharing agreement,
4 preorganization certificate of subscription, transferable share,
5 investment contract, certificate of deposit for a security,
6 certificate of interest or participation in a patent or patent
7 application, or in royalty or other payments under such a patent
8 or application, or, in general, any interest or instrument
9 commonly known as a "security" or any certificate for, receipt
10 for, or option, warrant, or right to subscribe to or purchase
11 any of the foregoing.

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

20 "Seed capital" means:



- 1 (1) Financing provided for the earliest stage of business
2 development that enables a project or idea to develop
3 into a business;
- 4 (2) Equity or loan capital provided for a new or existing
5 business undertaking;
- 6 (3) Funding to develop a concept or product idea to the
7 state at which its practical and commercial viability
8 can be assessed; and
- 9 (4) Funds invested in new and young companies that have
10 not yet fully established commercial operations.

11 "Venture capital investment" means any of the following
12 investments in a business:

- 13 (1) Common or preferred stock and equity securities
14 without a repurchase requirement for at least five
15 years;
- 16 (2) A right to purchase stock or equity securities;
- 17 (3) Any debenture or loan, whether or not convertible or
18 having stock purchase rights, which are subordinated,
19 together with security interests against the assets of
20 the borrower, by their terms to all borrowings of the
21 borrower from other institutional lenders, and that is



1 for a term of not less than three years, and that has
2 no part amortized during the first three years; and
3 (4) General or limited partnership interests.

4 § -3 **Board of directors.** (a) The corporation shall be
5 governed by a board of directors consisting of seven voting
6 members to be appointed by the governor for staggered terms
7 pursuant to section 26-34 as follows:

8 (1) Three to be appointed directly by the governor;

9 (2) Two to be appointed from a list of nominees submitted
10 by the president of the senate; and

11 (3) Two to be appointed from a list of nominees submitted
12 by the speaker of the house of representatives,

13 and shall be selected on the basis of their national academic or
14 industry reputations as experts or industry leaders in fields of
15 economic diversification and development, venture capital or
16 private equity investing, or technical knowledge in the fields
17 of advanced technology, life sciences, or renewable energy
18 technologies. The director of finance shall serve as an ex
19 officio nonvoting member. No voting member shall be an employee
20 of the State during the member's term of office on the board.

21 All members shall continue in office until their respective
22 successors have been appointed.



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

3 (c) Members shall serve without compensation but may be
4 reimbursed for expenses, including travel expenses, incurred in
5 the performance of their duties.

6 (d) The board shall appoint a chief executive officer of
7 the corporation who shall serve at the pleasure of the board and
8 shall be exempt from chapter 76. The board shall set the salary
9 and duties of the chief executive officer.

10 (e) A member shall not participate in any corporation
11 decision to invest in, purchase from, sell to, borrow from, loan
12 to, contract with, or otherwise deal with any person with whom
13 or entity in which the board member has a substantial financial
14 interest.

15 (f) Decisions shall be made by majority vote of a quorum,
16 provided that decisions to reject recommendations from technical
17 advisory committees relating to research and development grants
18 shall be made based on a two-thirds majority vote of the board.
19 A quorum shall consist of four members.

20 § -4 Funds. There are established the following
21 revolving funds:



- 1 (1) The Hawaii innovations partnership special fund. All
2 moneys appropriated by the legislature, received as
3 repayments of loans, earned on investments, received
4 pursuant to a venture agreement, received as
5 royalties, received as premiums or fees charged by the
6 corporation, or otherwise received by the corporation
7 shall be deposited into the Hawaii innovations
8 partnership special fund, which shall be a revolving
9 fund and shall not be considered part of the general
10 fund. The corporation may expend moneys from this
11 fund for the general operating costs of the
12 corporation and costs for professional investor
13 services, as provided in section -6. The balance
14 of this fund shall not be reduced below \$50,000,000,
15 except by prior authorization of the legislature;
- 16 (2) The Hawaii innovations partnership research and
17 development fund. Subject to legislative
18 appropriation, the board may transfer from the Hawaii
19 innovations partnership special fund to the Hawaii
20 innovations partnership research and development fund
21 up to \$10,000,000 for the first year of operation and
22 thereafter for each year an amount not to exceed four



1 per cent of the fiscal year-end balance of the Hawaii
2 innovations partnership special fund. Funds from the
3 Hawaii innovations partnership research and
4 development fund may be expended for:

5 (A) Research and development grants as provided in
6 the research and development grant program under
7 section -5;

8 (B) Costs to administer the research and development
9 grant program; and

10 (C) Costs to provide funded projects with technical
11 business support; and

12 (3) The Hawaii innovations partnership investment fund.
13 Subject to legislative appropriation, the board may
14 transfer from the Hawaii innovations partnership
15 special fund to the Hawaii innovations partnership
16 investment fund, which shall be a revolving fund, up
17 to \$25,000,000 for the first two years of operation,
18 and thereafter for each year an amount not to exceed
19 fifty per cent of any new funding appropriated by the
20 legislature to the Hawaii innovations partnership
21 special fund or five per cent of the fiscal year-end
22 balance of the Hawaii innovations partnership special



1 fund, whichever is greater; provided that the balance
2 shall not be reduced below \$50,000,000. Moneys from
3 the Hawaii innovations partnership investment fund may
4 be expended for:

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

7 (B) Costs to administer the venture capital
8 investment program; and

9 (C) Costs to provide funded projects with technical
10 business support.

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

- 20 (1) A market need for the product or service;
- 21 (2) Commercial viability;
- 22 (3) Development timeline;



- 1 (4) Ability to receive matching funding from other
2 sources; and
- 3 (5) Potential to return, within seven years, revenue or
4 profit sharing, royalties, license fees, or other
5 income equal to three times the amount of the initial
6 grant, and to provide high-paying jobs for residents.

7 The technical advisory committees shall make recommendations to
8 the board on grant awards, which shall be approved by a majority
9 vote of a quorum of the board or rejected by a two-thirds
10 majority of the board. Grants shall not exceed \$250,000 for a
11 project. No additional funding shall be awarded except upon
12 demonstrated progress toward product development and commercial
13 success.

14 **§ -6 Venture capital investment program.** The
15 corporation shall establish a venture capital investment program
16 to fund Hawaii-based enterprises with economic development
17 projects that require seed capital to achieve commercial
18 success. The board shall select professional investors who
19 manage venture capital investment programs through a competitive
20 process and may use technical advisors to evaluate the
21 proposals. Criteria for selection of professional investors
22 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 and marketing assistance, support, and
18 promotion to enterprises in which investments or
19 grants 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 assistance, support, and
3 promotion 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. The report shall include
15 the identity of the donor or lender, the nature of the
16 transaction, and any conditions attaching thereto;
- 17 (10) Acquire, own, hold, dispose of, and encumber personal
18 property of any nature or any interest therein;
- 19 (11) Enter into agreements or other transactions with any
20 federal, state, or county agency;
- 21 (12) Make contracts and execute all instruments necessary
22 or convenient for the carrying on of its business;



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

3 (14) Procure insurance as may be necessary;

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

8 (16) Appoint technical advisors or advisory committees as
9 deemed necessary; and

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

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

14 **§ -9 Contracts for services necessary for management and**

15 **operation of corporation.** The corporation may contract with
16 others, public or private, for the provision of all or a portion
17 of the services necessary for the management and operation of
18 the corporation. The corporation shall have the power to use
19 all appropriations, grants, contractual reimbursements, and all
20 other funds not appropriated for a designated purpose to pay for
21 the proper general expenses and to carry out the purposes of the
22 corporation. The corporation shall adopt procedures for



1 competitive selection of contractors as required under this
2 chapter and shall not be subject to the state procurement code
3 under chapter 103D.

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

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

17 **§ -11 Confidentiality of trade secrets or the like;**
18 **disclosure of financial information.** Notwithstanding chapters
19 92, 92F, or any other law to the contrary, any documents or data
20 made or received by any member or employee of the corporation,
21 to the extent that the material or data consist of trade
22 secrets, commercial or financial information regarding the



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

21 **§ -12 Limitation on liability.** Chapters 661 and 662 or
22 any other law to the contrary notwithstanding, nothing in this



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

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

17 § -14 **Audit.** Commencing with the second year of
18 operation, the auditor shall conduct annual audits of the
19 corporation."

20 SECTION 4. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$100,000,000, or so
22 much thereof as may be necessary for fiscal year 2007-2008, to



1 be deposited into the Hawaii innovations partnership special
2 fund.

3 SECTION 5. There is appropriated out of the Hawaii
4 innovations partnership special fund the sum of \$100,000,000, or
5 so much thereof as may be necessary for fiscal year 2007-2008,
6 to be used for the purposes of this Act.

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

10 SECTION 6. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of the amount equal to
12 one-half of one per cent of the general revenues of the State
13 collected in fiscal year 2007-2008, to be deposited into the
14 Hawaii innovations partnership special fund.

15 SECTION 7. There is appropriated out of the Hawaii
16 innovations partnership special fund the sum of the amount equal
17 to one-half of one per cent of the general revenues of the State
18 collected in fiscal year 2007-2008, or so much thereof as may be
19 necessary for fiscal year 2007-2008, to be used for the purposes
20 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 upon approval;
2 except that:
3 (1) Sections 4 and 5 shall take effect on July 1, 2007;
4 (2) Sections 6 and 7 shall take effect on July 1, 2008;
5 (3) Sections 8 and 9 shall take effect on July 1, 2009;
6 (4) Sections 10 and 11 shall take effect on July 1, 2010;
7 and
8 (5) Sections 12 and 13 shall take effect on July 1, 2011.

9

INTRODUCED BY: Carol Fulkerson
By request



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.

