

JAN 27 2010

A BILL FOR AN ACT

RELATING TO SPECIAL PURPOSE REVENUE BONDS.

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

1 SECTION 1. Chapter 39A, part II, Hawaii Revised Statutes,
2 is amended by adding a new section to be appropriately
3 designated and to read as follows:

4 "§39A- Pre-authorization certification. No later than
5 three months prior to the beginning of the legislative session
6 during which a project party intends to seek a special purpose
7 revenue bond authorization from the legislature, the project
8 party shall seek a pre-authorization certification from the
9 department. Upon completion of the application for the pre-
10 authorization certification by the project party, the department
11 shall make the determination of whether the applicant qualifies
12 as a responsible party, pursuant to section 39A-34(b), based on
13 the application materials submitted by the project party under
14 section 39A-32(1), and shall issue the pre-authorization
15 certification to the project party."

16 SECTION 2. Chapter 39A, part III, Hawaii Revised Statutes,
17 is amended by adding a new section to be appropriately
18 designated and to read as follows:



1 "§39A- Pre-authorization certification. No later than
2 three months prior to the beginning of the legislative session
3 during which a project party intends to seek a special purpose
4 revenue bond authorization from the legislature, the project
5 party shall seek a pre-authorization certification from the
6 department. Upon completion of the application for the pre-
7 authorization certification by the project party, the department
8 shall make the determination of whether the applicant qualifies
9 as a responsible party, pursuant to section 39A-74(b), based on
10 the application materials submitted by the project party under
11 section 39A-72(1), and shall issue the pre-authorization
12 certification to the project party."

13 SECTION 3. Chapter 39A, part IV, Hawaii Revised Statutes,
14 is amended by adding a new section to be appropriately
15 designated and to read as follows:

16 "§39A- Pre-authorization certification. No later than
17 three months prior to the beginning of the legislative session
18 during which a project party intends to seek a special purpose
19 revenue bond authorization from the legislature, the project
20 party shall seek a pre-authorization certification from the
21 department. Upon completion of the application for the pre-
22 authorization certification by the project party, the department



1 shall make the determination of whether the applicant qualifies
2 as a responsible party, pursuant to section 39A-114(b), based on
3 the application materials submitted by the project party under
4 section 39A-112(1), and shall issue the pre-authorization
5 certification to the project party."

6 SECTION 4. Chapter 39A, part V, Hawaii Revised Statutes,
7 is amended by adding a new section to be appropriately
8 designated and to read as follows:

9 "§39A- Pre-authorization certification. No later than
10 three months prior to the beginning of the legislative session
11 during which a project party intends to seek a special purpose
12 revenue bond authorization from the legislature, the project
13 party shall seek a pre-authorization certification from the
14 department. Upon completion of the application for the pre-
15 authorization certification by the project party, the department
16 shall make the determination of whether the applicant qualifies
17 as a responsible party, pursuant to section 39A-154(b), based on
18 the application materials submitted by the project party under
19 section 39A-152(1), and shall issue the pre-authorization
20 certification to the project party."



1 SECTION 5. Chapter 39A, part VI, Hawaii Revised Statutes,
2 is amended by adding a new section to be appropriately
3 designated and to read as follows:

4 "§39A- Pre-authorization certification. No later than
5 three months prior to the beginning of the legislative session
6 during which a project party intends to seek a special purpose
7 revenue bond authorization from the legislature, the project
8 party shall seek a pre-authorization certification from the
9 department. Upon completion of the application for the pre-
10 authorization certification by the project party, the department
11 shall make the determination of whether the applicant qualifies
12 as a responsible party, pursuant to section 39A-194(b), based on
13 the application materials submitted by the project party under
14 section 39A-192(1), and shall issue the pre-authorization
15 certification to the project party."

16 SECTION 6. Chapter 39A, part VII, Hawaii Revised Statutes,
17 is amended by adding a new section to be appropriately
18 designated and to read as follows:

19 "§39A- Pre-authorization certification. No later than
20 three months prior to the beginning of the legislative session
21 during which a project party intends to seek a special purpose
22 revenue bond authorization from the legislature, the project



1 party shall seek a pre-authorization certification from the
2 department. Upon completion of the application for the pre-
3 authorization certification by the project party, the department
4 shall make the determination of whether the applicant qualifies
5 as a responsible party, pursuant to section 39A-224(b), based on
6 the application materials submitted by the project party under
7 section 39A-222(1), and shall issue the pre-authorization
8 certification to the project party."

9 SECTION 7. Chapter 39A, part VIII, Hawaii Revised
10 Statutes, is amended by adding a new section to be appropriately
11 designated and to read as follows:

12 "§39A- Pre-authorization certification. No later than
13 three months prior to the beginning of the legislative session
14 during which a project party intends to seek a special purpose
15 revenue bond authorization from the legislature, the project
16 party shall seek a pre-authorization certification from the
17 department. Upon completion of the application for the pre-
18 authorization certification by the project party, the department
19 shall make the determination of whether the applicant qualifies
20 as a responsible party, pursuant to section 39A-254(b), based on
21 the application materials submitted by the project party under



1 section 39A-252(1), and shall issue the pre-authorization
2 certification to the project party."

3 SECTION 8. Chapter 39A, part IX, Hawaii Revised Statutes,
4 is amended by adding a new section to be appropriately
5 designated and to read as follows:

6 "§39A- Pre-authorization certification. No later than
7 three months prior to the beginning of the legislative session
8 during which a project party intends to seek a special purpose
9 revenue bond authorization from the legislature, the project
10 party shall seek a pre-authorization certification from the
11 department. Upon completion of the application for the pre-
12 authorization certification by the project party, the department
13 shall make the determination of whether the applicant qualifies
14 as a responsible party, pursuant to section 39A-284(b), based on
15 the application materials submitted by the project party under
16 section 39A-282(1), and shall issue the pre-authorization
17 certification to the project party."

18 SECTION 9. Chapter 39A, part X, Hawaii Revised Statutes,
19 is amended by adding a new section to be appropriately
20 designated and to read as follows:

21 "§39A- Pre-authorization certification. No later than
22 three months prior to the beginning of the legislative session



1 during which a project party intends to seek a special purpose
2 revenue bond authorization from the legislature, the project
3 party shall seek a pre-authorization certification from the
4 department. Upon completion of the application for the pre-
5 authorization certification by the project party, the department
6 shall make the determination of whether the applicant qualifies
7 as a responsible party, pursuant to section 39A-314(b), based on
8 the application materials submitted by the project party under
9 section 39A-312(1), and shall issue the pre-authorization
10 certification to the project party."

11 SECTION 10. Section 39A-32, Hawaii Revised Statutes, is
12 amended to read as follows:

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

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

18 (1) To accept and evaluate materials pertaining to whether
19 the project party is a responsible party, as described
20 in section 39A-34(b), and to issue a pre-authorization
21 certification to the project party. To qualify for a



1 pre-authorization certification, a project party

2 shall:

3 (A) Meet the definition of a responsible party in

4 section 39A-34(b); and

5 (B) Submit an application to the department that

6 describes the health care facility to be

7 financed, which:

8 (i) Summarizes the proposed method of financing,

9 construction cost estimates, and estimated

10 construction completion date;

11 (ii) Indicates whether the state health planning

12 and development agency has issued a final

13 decision awarding a certificate of need or

14 an exemption therefrom to the applicant for

15 the health care facility proposed;

16 (iii) Includes the licensing and accreditation

17 procedures to which the project party is

18 subject;

19 (iv) Includes audited financial statements for

20 the project party for the most recent three

21 years; and



1 (v) Includes any other information required by
2 the department in order to make a
3 determination of whether the project party
4 is a responsible party;

5 [~~1~~] (2) Notwithstanding and without compliance with
6 section 103-7 and chapter 103D, but with the approval
7 of the governor, to:

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

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

15 [~~2~~] (3) To issue special purpose revenue bonds pursuant
16 to and in accordance with this part;

17 [~~3~~] (4) To lend the proceeds of the special purpose
18 revenue bonds issued for a project to the project
19 party for use and application by the project party for
20 the acquisition, purchase, construction,
21 reconstruction, improvement, betterment, extension, or



1 refinancing of outstanding obligations related to a
2 project;

3 [~~4~~] (5) As security for the payment of the principal,
4 premium, if any, and interest of the special purpose
5 revenue bonds issued for this project, to:

6 (A) Pledge, assign, hypothecate, or otherwise
7 encumber all or any part of the revenues and
8 receipts derived or to be derived by the
9 department under the project agreement for the
10 project for which the special purpose revenue
11 bonds are issued;

12 (B) Pledge and assign the interest and rights of the
13 department under the project agreement or other
14 agreement with respect to the project or the
15 special purpose revenue bonds;

16 (C) Pledge and assign any bond, debenture, note, or
17 other evidence of indebtedness received by the
18 department with respect to the project; or

19 (D) Any combination of the foregoing;

20 [~~5~~] (6) To extend or renew any project agreement or any
21 other agreement related thereto; provided that any
22 renewal or extension shall be subject to the approval



1 of the governor unless made in accordance with
 2 provisions for the extension or renewal contained in a
 3 project agreement or related agreement theretofore
 4 approved by the governor; and

5 [~~6~~] (7) To do any and all things necessary or convenient
 6 to carry out its purposes and exercise the powers
 7 given and granted in this part.

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

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

16 "**§39A-72 Department powers as to manufacturing**
 17 **enterprises.** In addition to powers that it may now have, the
 18 department shall have all powers necessary or convenient to
 19 accomplish the purposes of this part. The powers of the
 20 department include but are not limited to the following:

21 (1) To accept and evaluate materials pertaining to whether
 22 the project party is a responsible party, as described



1 in section 39A-74(b), and to issue a pre-authorization
2 certification to the project party. To qualify for a
3 pre-authorization certification, a project party
4 shall:

5 (A) Meet the definition of a responsible party in
6 section 39A-74(b); and

7 (B) Submit an application to the department that
8 describes the manufacturing enterprise to be
9 financed, which:

10 (i) Summarizes the proposed method of financing,
11 construction cost estimates, and estimated
12 construction completion date;

13 (ii) Includes a study prepared by a third party,
14 or a letter from the department of business,
15 economic development, and tourism, regarding
16 feasibility of the manufacturing facility
17 proposed;

18 (iii) Includes the licensing and accreditation
19 procedures to which the project party is
20 subject;



1 (iv) Includes audited financial statements for
2 the project party for the most recent three
3 years; and

4 (v) Includes any other information required by
5 the department in order to make a
6 determination of whether the project party
7 is a responsible party;

8 [~~1~~] (2) Notwithstanding and without compliance with
9 section 103-7 and chapter 103D, but with the approval
10 of the governor, to:

11 (A) Enter into and carry out a project agreement, or
12 an amendment or supplement to an existing project
13 agreement, with a project party; and

14 (B) Enter into and carry out any agreement, whereby
15 the obligation of a project party under a project
16 agreement will be unconditionally guaranteed by a
17 person other than a project party;

18 [~~2~~] (3) To issue special purpose revenue bonds pursuant
19 to and in accordance with this part;

20 [~~3~~] (4) To lend the proceeds of the special purpose
21 revenue bonds issued for a project to the project
22 party for use and application by the project party for



1 the acquisition, purchase, construction,
2 reconstruction, improvement, betterment, extension, or
3 maintenance of a project;

4 ~~[(4)]~~ (5) As security for the payment of the principal,
5 premium, if any, and interest of the special purpose
6 revenue bonds issued for a project, to:

7 (A) Pledge, assign, hypothecate, or otherwise
8 encumber all or any part of the revenues and
9 receipts derived or to be derived by the
10 department under the project agreement for the
11 project for which the special purpose revenue
12 bonds are issued;

13 (B) Pledge and assign the interest and rights of the
14 department under the project agreement or other
15 agreement with respect to the project or the
16 special purpose revenue bonds;

17 (C) Pledge and assign any bond, debenture, note, or
18 other evidence of indebtedness received by the
19 department with respect to the project; or

20 (D) Any combination of the foregoing;

21 ~~[(5)]~~ (6) To extend or renew any project agreement or any
22 other agreement related thereto; provided that any



1 renewal or extension shall be subject to the approval
2 of the governor unless made in accordance with
3 provisions for the extension or renewal contained in a
4 project agreement or related agreement theretofore
5 approved by the governor; and

6 ~~[(+6)]~~ (7) To do any and all things necessary or convenient
7 to carry out its purposes and exercise the powers
8 given and granted in this part."

9 SECTION 12. Section 39A-112, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§39A-112 Department powers as to processing enterprises.**

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

16 (1) To accept and evaluate materials pertaining to whether
17 the project party is a responsible party, as described
18 in section 39A-114(b), and to issue a pre-
19 authorization certification to the project party. To
20 qualify for a pre-authorization certification, a
21 project party shall:



- 1 (A) Meet the definition of a responsible party in
- 2 section 39A-114(b); and
- 3 (B) Submit an application to the department that
- 4 describes the processing enterprise to be
- 5 financed, which:
- 6 (i) Summarizes the proposed method of financing,
- 7 construction cost estimates, and estimated
- 8 construction completion date;
- 9 (ii) Includes a study prepared by a third party,
- 10 or a letter from the department of business,
- 11 economic development, and tourism, regarding
- 12 the feasibility of the processing enterprise
- 13 proposed;
- 14 (iii) Includes the licensing and accreditation
- 15 procedures to which the project party is
- 16 subject;
- 17 (iv) Includes audited financial statements for
- 18 the project party for the most recent three
- 19 years; and
- 20 (v) Includes any other information required by
- 21 the department in order to make a



1 determination of whether the project party
2 is a responsible party;

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

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

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

13 [~~2~~] (3) To issue special purpose revenue bonds pursuant
14 to and in accordance with this part;

15 [~~3~~] (4) To lend the proceeds of the special purpose
16 revenue bonds issued for a project to the project
17 party for use and application by the project party for
18 the acquisition, purchase, construction,
19 reconstruction, improvement, betterment, extension, or
20 maintenance of a project;



1 project agreement or related agreement theretofore
2 approved by the governor; and
3 ~~[(6)]~~ (7) To do any and all things necessary or convenient
4 to carry out its purposes and exercise the powers
5 given and granted in this part."

6 SECTION 13. Section 39A-152, Hawaii Revised Statutes, is
7 amended to read as follows:

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

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

13 (1) To accept and evaluate materials pertaining to whether
14 the project party is a responsible party, as described
15 in section 39A-154(b), and to issue a pre-
16 authorization certification to the project party. To
17 qualify for a pre-authorization certification, a
18 project party shall:

19 (A) Meet the definition of a responsible party in
20 section 39A-154(b); and



1 (B) Submit an application to the department that
2 describes the industrial enterprise to be
3 financed, which:

4 (i) Summarizes the proposed method of financing,
5 construction cost estimates, and estimated
6 construction completion date;

7 (ii) Includes a study prepared by a third party,
8 or a letter from the department of business,
9 economic development, and tourism, regarding
10 the feasibility of the industrial enterprise
11 proposed;

12 (iii) Includes the licensing or accreditation
13 procedures to which the project party or the
14 project is subject;

15 (iv) Includes audited financial statements for
16 the project party for the most recent three
17 years; and

18 (v) Includes any other information required by
19 the department in order to make a
20 determination of whether the project party
21 is a responsible party;



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



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



1 ~~[(6)]~~ (7) To do any and all things necessary or convenient
 2 to carry out its purposes and exercise the powers
 3 given and granted in this part."

4 SECTION 14. Section 39A-192, Hawaii Revised Statutes, is
 5 amended to read as follows:

6 "**§39A-192 Department powers as to energy projects.** In
 7 addition to powers that it may now have, the department shall
 8 have all powers necessary or convenient to accomplish the
 9 purposes of this part. The powers of the department include but
 10 are not limited to the following:

11 (1) To accept and evaluate materials pertaining to whether
 12 the project party is a responsible party, as described
 13 in section 39A-194(b), and to issue a pre-
 14 authorization certification to the project party. To
 15 qualify for a pre-authorization certification, a
 16 project party shall:

17 (A) Meet the definition of a responsible party in
 18 section 39A-194(b); and

19 (B) Submit an application to the department that
 20 describes the energy project to be financed,
 21 which:



1 (vi) Includes audited financial statements for
2 the project party for the most recent three
3 years; and

4 (vii) Includes any other information required by
5 the department in order to make a
6 determination of whether the project party
7 is a responsible party;

8 [~~1~~] (2) Notwithstanding and without compliance with
9 section 103-7 and chapter 103D, but with the approval
10 of the governor, to:

11 (A) Enter into and carry out a project agreement, or
12 an amendment or supplement to an existing project
13 agreement, with a project party; and

14 (B) Enter into and carry out any agreement, whereby
15 the obligation of a project party under a project
16 agreement will be unconditionally guaranteed by a
17 person other than a project party;

18 [~~2~~] (3) To issue special purpose revenue bonds pursuant
19 to and in accordance with this part;

20 [~~3~~] (4) To lend the proceeds of the special purpose
21 revenue bonds issued for an energy project to the
22 project party for use and application by the project



1 party for the acquisition, purchase, construction,
2 reconstruction, improvement, betterment, or extension
3 of an energy project;

4 ~~[(4)]~~ (5) As security for the payment of the principal of
5 and interest on the special purpose revenue bonds
6 issued for an energy project, to:

7 (A) Pledge, assign, hypothecate, or otherwise
8 encumber all or any part of the revenues and
9 receipts derived or to be derived by the
10 department under the project agreement for the
11 energy project for which the special purpose
12 revenue bonds are issued;

13 (B) Pledge and assign the interest and rights of the
14 department under the project agreement or other
15 agreement with respect to the project or the
16 special purpose revenue bonds;

17 (C) Pledge and assign any bond, debenture, note, or
18 other evidence of indebtedness received by the
19 department with respect to the energy project; or

20 (D) Any combination of the foregoing;

21 ~~[(5)]~~ (6) To extend or renew any project agreement or any
22 other agreement related thereto; provided that any



1 renewal or extension shall be subject to the approval
 2 of the governor unless made in accordance with
 3 provisions for the extension or renewal contained in a
 4 project agreement or related agreement theretofore
 5 approved by the governor; and

6 ~~[(6)]~~ (7) To do any and all things necessary or convenient
 7 to carry out its purposes and exercise the powers
 8 given and granted in this part.

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

15 SECTION 15. Section 39A-222, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "**§39A-222 Department powers as to early childhood**
 18 **education and care facilities.** In addition to powers that it
 19 may now have, the department shall have all powers necessary or
 20 convenient to accomplish the purposes of this part. The powers
 21 of the department include but are not limited to the following:



- 1 (1) To accept and evaluate materials pertaining to whether
2 the project party is a responsible party, as described
3 in section 39A-224(b), and to issue a pre-
4 authorization certification to the project party. To
5 qualify for a pre-authorization certification, a
6 project party shall:
- 7 (A) Meet the definition of a responsible party in
8 section 39A-224(b); and
- 9 (B) Submit an application to the department that
10 describes the early childhood education and care
11 facility to be financed or refinanced, which:
- 12 (i) Summarizes the proposed method of financing,
13 construction cost estimates, and estimated
14 construction completion date, if the
15 facility is new construction, or a financial
16 statement describing the obligations to be
17 refinanced, if the bond will refinance
18 outstanding obligations of an existing
19 facility;
- 20 (ii) A general description of the early childhood
21 education and care facility, including the



- 1 types of services provided or to be provided
2 and the number of children to be served;
- 3 (iii) Includes a certified statement from the
4 project party that the facility meets the
5 definition of the early childhood education
6 and care facility, as defined in section
7 39A-221;
- 8 (iv) Includes a study prepared by a third party,
9 or a letter from the department of human
10 services, regarding the feasibility of the
11 early childhood education and care facility;
- 12 (v) Includes the licensing and accreditation
13 procedures to which the project party is
14 subject;
- 15 (vi) Includes audited financial statements for
16 the project party for the most recent three
17 years; and
- 18 (vii) Includes any other information required by
19 the department in order to make a
20 determination of whether the project party
21 is a responsible party;



S.B. NO.

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



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



1 ~~[(6)]~~ (7) To do any and all things necessary or convenient
 2 to carry out its purposes and exercise the powers
 3 given and granted in this part.

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

10 SECTION 16. Section 39A-252, Hawaii Revised Statutes, is
 11 amended to read as follows:

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

- 18 (1) To accept and evaluate materials pertaining to whether
 19 the project party is a responsible party, as described
 20 in section 39A-254(b), and to issue a pre-
 21 authorization certification to the project party. To



1 qualify for a pre-authorization certification, a
2 project party shall:

3 (A) Meet the definition of a responsible party in
4 section 39A-254(b); and

5 (B) Submit an application to the department that
6 describes the proposed elementary school,
7 secondary school, college, or university facility
8 to be financed or refinanced, which:

9 (i) Summarizes the proposed method of financing,
10 construction cost estimates, and estimated
11 construction completion date, if the
12 facility is new construction, or a financial
13 statement describing the obligations to be
14 refinanced, if the bond will refinance
15 outstanding obligations of an existing
16 statement;

17 (ii) Includes a study prepared by a third party,
18 or a letter from the department of
19 education, regarding the feasibility of the
20 elementary school, secondary school,
21 college, or university facility;



1 (iii) Includes the licensing and accreditation
2 procedures to which the project party is
3 subject, together with the latest reports,
4 if any, regarding the facility's licensing
5 and accreditation;

6 (iv) Includes audited financial statements for
7 the project party for the most recent three
8 years; and

9 (v) Includes any other information required by
10 the department in order to make a
11 determination of whether the project party
12 is a responsible party;

13 [~~1~~] (2) Notwithstanding and without compliance with
14 section 103-7 and chapter 103D, but with the approval
15 of the governor, to:

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

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



1 ~~[(2)]~~ (3) To issue special purpose revenue bonds pursuant
2 to and in accordance with this part;

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

10 ~~[(4)]~~ (5) As security for the payment of the principal,
11 premium, if any, and interest of the special purpose
12 revenue bonds issued for this project, to:

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

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



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

4 (D) Any combination of the foregoing;

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

12 ~~[(6)]~~ (7) To do any and all things necessary or convenient
13 to carry out its purposes and exercise the powers
14 given and granted in this part.

15 When the department finances or refines a project by the
16 issuance of special purpose revenue bonds as contemplated by
17 this part, the State shall not exercise the power of eminent
18 domain to acquire a project or any part of the project for lease
19 or transfer to a project party, nor shall the State operate a
20 project on behalf of a project party."

21 SECTION 17. Section 39A-282, Hawaii Revised Statutes, is
22 amended to read as follows:



1 " [+]§39A-282[+] Department powers in the development of
2 low- and moderate-income housing. In addition to powers that it
3 may now have, the department shall have all powers necessary or
4 convenient to accomplish the purposes of this part. The powers
5 of the department include but are not limited to the following:

6 (1) To accept and evaluate materials pertaining to whether
7 the project party is a responsible party, as described
8 in section 39A-284(b), and to issue a pre-
9 authorization certification to the project party. To
10 qualify for a pre-authorization certification, a
11 project party shall:

12 (A) Meet the definition of a responsible party in
13 section 39A-284(b); and

14 (B) Submit an application to the department that
15 describes the low- and moderate-income housing
16 project to be financed or refinanced, which:

17 (i) Summarizes the proposed method of financing,
18 construction cost estimates, and estimated
19 construction completion date, if the
20 facility is new construction, or a financial
21 statement describing the obligations to be
22 refinanced, if the bond will refinance



- 1 outstanding obligations of an existing
- 2 facility;
- 3 (ii) Includes a certified statement by the
- 4 project party describing how the project has
- 5 met or will meet the definition of "low- and
- 6 moderate-income housing project", as defined
- 7 in section 39A-281;
- 8 (iii) Includes a feasibility study of the project
- 9 prepared by an independent third party, and,
- 10 if a new project, a statement estimating the
- 11 number of persons or families who meet the
- 12 income-qualifying criteria that are likely
- 13 to purchase or rent the units in the
- 14 project;
- 15 (iv) Includes audited financial statements for
- 16 the project party for the most recent three
- 17 years; and
- 18 (v) Includes any other information required by
- 19 the department in order to make a
- 20 determination of whether the project party
- 21 is a responsible party;



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

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

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

11 ~~[(2)]~~ (3) To issue special purpose revenue bonds pursuant
12 to and in accordance with this part;

13 ~~[(3)]~~ (4) To lend the proceeds of the special purpose
14 revenue bonds issued for a project to the project
15 party for use and application by the project party for
16 the project;

17 ~~[(4)]~~ (5) As security for the payment of the principal,
18 premium, if any, and interest of the special purpose
19 revenue bonds issued for this project, to:

20 (A) Pledge, assign, hypothecate, or otherwise
21 encumber all or any part of the revenues and
22 receipts derived or to be derived by the



1 department under the project agreement for the
2 project for which the bonds are issued;

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

7 (C) Pledge and assign any bond, debenture, note, or
8 other evidence of indebtedness received by the
9 department with respect to the project; or

10 (D) Any combination of the foregoing;

11 [~~5~~] (6) To extend or renew any project agreement or any
12 other agreement related to the project agreement;
13 provided that any renewal or extension shall be
14 subject to the approval of the governor unless made in
15 accordance with provisions for the extension or
16 renewal contained in a project agreement or related
17 agreement theretofore approved by the governor; and

18 [~~6~~] (7) To do any and all things necessary or convenient
19 to carry out its purposes and exercise the powers
20 given and granted in this part.

21 When the department finances or refinances a project by the
22 issuance of special purpose revenue bonds as contemplated by



1 this part, the State shall not exercise the power of eminent
2 domain to acquire a project or any part of the project for lease
3 or transfer to a project party, nor shall the State operate a
4 project on behalf of a project party."

5 SECTION 18. Section 39A-312, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§39A-312[+] Department powers as to agricultural
8 enterprises serving important agricultural lands. In addition
9 to powers that it may now have, the department shall have all
10 powers necessary or convenient to accomplish the purposes of
11 this part. The powers of the department include but are not
12 limited to the following:

13 (1) To accept and evaluate materials pertaining to whether
14 the project party is a responsible party, as described
15 in section 39A-314(b), and to issue a pre-
16 authorization certification to the project party. To
17 qualify for a pre-authorization certification, a
18 project party shall:

19 (A) Meet the definition of a responsible party in
20 section 39A-314(b); and

21 (B) Submit an application to the department that
22 describes the agricultural enterprise serving



- 1 important agricultural lands to be financed,
2 which:
- 3 (i) Summarizes the proposed method of financing,
4 construction cost estimates, and estimated
5 construction completion date;
 - 6 (ii) Indicates whether lands underlying the
7 facility have been designated as important
8 agricultural lands, or are capable of being
9 designated as important agricultural lands
10 and the steps being taken by the project
11 party to have the lands designated;
 - 12 (iii) Includes a study prepared by a third party,
13 or a letter from the department of
14 agriculture, regarding the feasibility of
15 the facility;
 - 16 (iv) Includes audited financial statements for
17 the project party for the most recent three
18 years; and
 - 19 (v) Includes any other information required by
20 the department in order to make a
21 determination of whether the project party
22 is a responsible party;



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

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

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

11 [~~2~~] (3) To issue special purpose revenue bonds pursuant
12 to and in accordance with this part;

13 [~~3~~] (4) To lend the proceeds of the special purpose
14 revenue bonds issued for a project to the project
15 party for use and application by the project party for
16 the acquisition, purchase, construction,
17 reconstruction, improvement, betterment, extension,
18 maintenance of a project, or refinancing of
19 outstanding obligations related to a project;

20 [~~4~~] (5) As security for the payment of the principal,
21 premium, if any, and interest of the special purpose
22 revenue bonds issued for a project, to:



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



1 [~~6~~] (7) To do any and all things necessary or convenient
2 to carry out its purposes and exercise the powers
3 given and granted in this part.

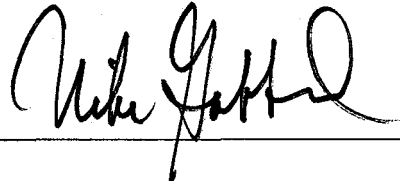

4 When the department finances or refines a project by the
5 issuance of special purpose revenue bonds as contemplated by
6 this part, the State shall not exercise the power of eminent
7 domain to acquire a project or any part thereof for lease or
8 transfer to a project party, nor shall the State operate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

10 SECTION 19. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 20. This Act shall take effect upon its approval.

13

INTRODUCED BY:



Report Title:

Special Purpose Revenue Bonds; Pre-Authorization Certification

Description:

Requires an applicant for a special purpose revenue bond to apply for a pre-authorization certification from the department of budget and finance 3 months prior to the legislative session in which the applicant seeks the bond authorization. Sets out requirements for the pre-authorization certification for each type of bond.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

