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# 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 determine whether the applicant qualifies as a responsible  
12 party, pursuant to section 39A-34(b), based on the application  
13 materials submitted by the project party under section 39A-  
14 32(1), and shall issue the pre-authorization certification to  
15 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 determine whether the applicant qualifies as a responsible  
9 party, pursuant to section 39A-74(b), based on the application  
10 materials submitted by the project party under section 39A-  
11 72(1), and shall issue the pre-authorization certification to  
12 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 determine whether the applicant qualifies as a responsible  
2 party, pursuant to section 39A-114(b), based on the application  
3 materials submitted by the project party under section 39A-  
4 112(1), and shall issue the pre-authorization certification to  
5 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 determine whether the applicant qualifies as a responsible  
17 party, pursuant to section 39A-154(b), based on the application  
18 materials submitted by the project party under section 39A-  
19 152(1), and shall issue the pre-authorization certification to  
20 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 determine whether the applicant qualifies as a responsible  
12 party, pursuant to section 39A-194(b), based on the application  
13 materials submitted by the project party under section 39A-  
14 192(1), and shall issue the pre-authorization certification to  
15 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 determine whether the applicant qualifies as a responsible  
5 party, pursuant to section 39A-224(b), based on the application  
6 materials submitted by the project party under section 39A-  
7 222(1), and shall issue the pre-authorization certification to  
8 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 determine whether the applicant qualifies as a responsible  
20 party, pursuant to section 39A-254(b), based on the application  
21 materials submitted by the project party under section 39A-



1 252(1), and shall issue the pre-authorization certification to  
2 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 determine whether the applicant qualifies as a responsible  
14 party, pursuant to section 39A-284(b), based on the application  
15 materials submitted by the project party under section 39A-  
16 282(1), and shall issue the pre-authorization certification to  
17 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 determine whether the applicant qualifies as a responsible  
 7 party, pursuant to section 39A-314(b), based on the application  
 8 materials submitted by the project party under section 39A-  
 9 312(1), and shall issue the pre-authorization certification to  
 10 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 the powers [~~that it may now have,~~] presently  
 15 authorized to the department by law, the department shall have  
 16 all powers necessary or convenient to accomplish the purposes of  
 17 this part. The powers of the department include but are not  
 18 limited to the following:

- 19 (1) To accept and evaluate materials pertaining to whether  
 20 the project party is a responsible party, as described  
 21 in section 39A-34(b), and to issue a pre-authorization  
 22 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 determine whether  
3                   the project party is a responsible party;

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

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

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

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

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



1       ~~[(4)]~~ (5) As security for the payment of the principal,  
2                   premium, if any, and interest of the special purpose  
3                   revenue bonds issued for this project, to:

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

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

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

17                  (D) Any combination of the foregoing;

18       ~~[(5)]~~ (6) To extend or renew any project agreement or any  
19                   other agreement related thereto; provided that any  
20                   renewal or extension shall be subject to the approval  
21                   of the governor unless made in accordance with  
22                   provisions for the extension or renewal contained in a



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

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

14 "**§39A-72 Department powers as to manufacturing**  
15 **enterprises.** In addition to the powers ~~[that it may now have,]~~  
16 presently authorized to the department by law, the department  
17 shall have all powers necessary or convenient to accomplish the  
18 purposes of this part. The powers of the department include but  
19 are not limited to the following:

20 (1) To accept and evaluate materials pertaining to whether  
21 the project party is a responsible party, as described  
22 in section 39A-74(b), and to issue a pre-authorization



1 certification to the project party. To qualify for a  
2 pre-authorization certification, a project party  
3 shall:

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

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

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

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

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

20 (iv) Includes audited financial statements for  
21 the project party for the most recent three  
22 years; and



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



1        [~~(4)~~] (5) As security for the payment of the principal,  
2                    premium, if any, and interest of the special purpose  
3                    revenue bonds issued for a project, to:

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

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

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

17                    (D) Any combination of the foregoing;

18        [~~(5)~~] (6) To extend or renew any project agreement or any  
19                    other agreement related thereto; provided that any  
20                    renewal or extension shall be subject to the approval  
21                    of the governor unless made in accordance with  
22                    provisions for the extension or renewal contained in a



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

8 "**§39A-112 Department powers as to processing enterprises.**

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

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

20 (A) Meet the definition of a responsible party in  
21 section 39A-114(b); and



- 1           (B) Submit an application to the department that
- 2           describes the processing 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 processing enterprise
- 11           proposed;
- 12           (iii) Includes the licensing and accreditation
- 13           procedures to which the project party is
- 14           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 determine whether
- 20           the project party 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 13. Section 39A-152, Hawaii Revised Statutes, is  
5 amended to read as follows:

6            "**§39A-152 Department powers as to industrial enterprises.**

7 In addition to the powers [~~that it may now have,~~] presently  
8 authorized to the department by law, the department shall have  
9 all powers necessary or convenient to accomplish the purposes of  
10 this part. The powers of the department include but are not  
11 limited to the following:

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

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

20            (B) Submit an application to the department that  
21            describes the industrial enterprise to be  
22            financed, which:



1                    (i) Summarizes the proposed method of financing,  
2                    construction cost estimates, and estimated  
3                    construction completion date;

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

9                    (iii) Includes the licensing or accreditation  
10                   procedures to which the project party or the  
11                   project is subject;

12                   (iv) Includes audited financial statements for  
13                   the project party for the most recent three  
14                   years; and

15                   (v) Includes any other information required by  
16                   the department in order to determine whether  
17                   the project party is a responsible party;

18                   ~~(1)~~ (2) Notwithstanding and without compliance with  
19                   section 103-7 and chapter 103D, but with the approval  
20                   of the governor, to:



- 1 (A) Enter into and carry out a project agreement, or
- 2 an amendment or supplement to an existing project
- 3 agreement, with a project party; and
- 4 (B) Enter into and carry out any agreement, whereby
- 5 the obligation of a project party under a project
- 6 agreement will be unconditionally guaranteed by a
- 7 person other than a project party;
- 8 [~~2~~] (3) To issue special purpose revenue bonds pursuant
- 9 to and in accordance with this part;
- 10 [~~3~~] (4) To lend the proceeds of the special purpose
- 11 revenue bonds issued for a project to the project
- 12 party for use and application by the project party for
- 13 the acquisition, purchase, construction,
- 14 reconstruction, improvement, betterment, extension, or
- 15 maintenance of a project;
- 16 [~~4~~] (5) As security for the payment of the principal,
- 17 premium, if any, and interest of the special purpose
- 18 revenue bonds issued for a project, to:
- 19 (A) Pledge, assign, hypothecate, or otherwise
- 20 encumber all or any part of the revenues and
- 21 receipts derived or to be derived by the
- 22 department under the project agreement for the



- 1 project for which the special purpose revenue
- 2 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 thereto; provided that any
- 13 renewal or extension shall be subject to the approval
- 14 of the governor unless made in accordance with
- 15 provisions for the extension or renewal contained in a
- 16 project agreement or related agreement theretofore
- 17 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 SECTION 14. Section 39A-192, Hawaii Revised Statutes, is  
 22 amended to read as follows:



1           "§39A-192 Department powers as to energy projects. In  
2 addition to the powers [that it may now have,] presently  
3 authorized to the department by law, the department shall have  
4 all powers necessary or convenient to accomplish the purposes of  
5 this part. The powers of the department include but are not  
6 limited to the following:

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

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

15           (B) Submit an application to the department that  
16           describes the energy project to be financed,  
17           which:

18           (i) Summarizes the proposed method of financing,  
19           construction cost estimates, and estimated  
20           construction completion date;

21           (ii) Indicates whether the project has been  
22           certified by the public utilities commission



- 1                   as being from the local furnishing of  
2                   electric energy or gas within the meaning of  
3                   that phase as defined in section 39A-191, or  
4                   any relevant correspondence with the public  
5                   utilities commission regarding this issue;  
6            (iii)   Includes a certified statement from the  
7                   project party that the project qualifies as  
8                   an energy project, as defined in section  
9                   39A-191;  
10           (iv)   Includes a study prepared by a third party,  
11                   or a letter from the department of business,  
12                   economic development, and tourism, regarding  
13                   the feasibility of the energy project  
14                   proposed;  
15           (v)   Includes the licensing and accreditation  
16                   procedures to which the project party is  
17                   subject;  
18           (vi)   Includes audited financial statements for  
19                   the project party for the most recent three  
20                   years; and





1                   (vii) Includes any other information required by  
2                                   the department in order to determine whether  
3                                   the project party is a responsible party;

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

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

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

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

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

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



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

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

14 "§39A-222 Department powers as to early childhood  
15 education and care facilities. In addition to the powers [~~that~~  
16 ~~it may now have,~~] presently authorized to the department by law,  
17 the department shall have all powers necessary or convenient to  
18 accomplish the purposes of this part. The powers of the  
19 department include but are not limited to the following:

20 (1) To accept and evaluate materials pertaining to whether  
21 the project party is a responsible party, as described  
22 in section 39A-224 (b), and to issue a pre-



1 authorization certification to the project party. To  
2 qualify for a pre-authorization certification, a  
3 project party shall:

4 (A) Meet the definition of a responsible party in  
5 section 39A-224 (b); and

6 (B) Submit an application to the department that  
7 describes the early childhood education and care  
8 facility 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 facility;

17 (ii) A general description of the early childhood  
18 education and care facility, including the  
19 types of services provided or to be provided  
20 and the number of children to be served;

21 (iii) Includes a certified statement from the  
22 project party that the facility meets the



1 definition of the early childhood education  
2 and care facility, as defined in section  
3 39A-221;

4 (iv) Includes a study prepared by a third party,  
5 or a letter from the department of human  
6 services, regarding the feasibility of the  
7 early childhood education and care facility;

8 (v) Includes the licensing and accreditation  
9 procedures to which the project party is  
10 subject;

11 (vi) Includes audited financial statements for  
12 the project party for the most recent three  
13 years; and

14 (vii) Includes any other information required by  
15 the department in order to determine whether  
16 the project party is a responsible party;

17 [~~1~~] (2) Notwithstanding and without compliance with  
18 section 103-7 and chapter 103D, but with the approval  
19 of the governor, to:

20 (A) Enter into and carry out a project agreement, or  
21 an amendment or supplement to an existing project  
22 agreement, with a project party; and



1 (B) Enter into and carry out any agreement, whereby  
2 the obligation of a project party under a project  
3 agreement will be unconditionally guaranteed by a  
4 person other than a project party;

5 [~~(2)~~] (3) To issue special purpose revenue bonds pursuant  
6 to and in accordance with this part;

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

14 [~~(4)~~] (5) As security for the payment of the principal,  
15 premium, if any, and interest of the special purpose  
16 revenue bonds issued for [~~this~~] a project, to:

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



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

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

8 (D) Any combination of the foregoing;

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

16 ~~[-(6)-]~~ (7) To do any and all things necessary or convenient  
17 to carry out its purposes and exercise the powers  
18 given and granted in this part.

19 When the department finances or refines a project by the  
20 issuance of special purpose revenue bonds as contemplated by  
21 this part, the State shall not exercise the power of eminent  
22 domain to acquire a project or any part thereof for lease or



1 transfer to a project party, nor shall the State operate a  
2 project on behalf of a project party."

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

5 "§39A-252 Department powers as to private nonsectarian and  
6 sectarian elementary schools, secondary schools, colleges, and  
7 universities. In addition to the powers [~~that it may now have,~~]  
8 presently authorized to the department by law, the department  
9 shall have all powers necessary or convenient to accomplish the  
10 purposes of this part. The powers of the department include but  
11 are not limited to the following:

12 (1) To accept and evaluate materials pertaining to whether  
13 the project party is a responsible party, as described  
14 in section 39A-254(b), and to issue a pre-  
15 authorization certification to the project party. To  
16 qualify for a pre-authorization certification, a  
17 project party shall:

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

20 (B) Submit an application to the department that  
21 describes the proposed elementary school,





1           secondary school, college, or university facility  
2           to be financed or refinanced, which:

3           (i) Summarizes the proposed method of financing,  
4           construction cost estimates, and estimated  
5           construction completion date, if the  
6           facility is new construction, or a financial  
7           statement describing the obligations to be  
8           refinanced, if the bond will refinance  
9           outstanding obligations of an existing  
10          statement;

11          (ii) Includes a study prepared by a third party,  
12          or a letter from the department of  
13          education, regarding the feasibility of the  
14          elementary school, secondary school,  
15          college, or university facility;

16          (iii) Includes the licensing and accreditation  
17          procedures to which the project party is  
18          subject, together with the latest reports,  
19          if any, regarding the facility's licensing  
20          and accreditation;



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 determine whether  
6                    the project party is a responsible party;

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

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

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

17        [~~2~~] (3) To issue special purpose revenue bonds pursuant  
18                    to and in accordance with this part;

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



1 reconstruction, improvement, betterment, extension, or  
2 refinancing of outstanding obligations related to a  
3 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 this 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 to the project agreement;



1 provided that any renewal or extension shall be  
2 subject to the approval of the governor unless made in  
3 accordance with provisions for the extension or  
4 renewal contained in a project agreement or related  
5 agreement theretofore 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 or refines a project by the  
10 issuance of special purpose revenue bonds as contemplated by  
11 this part, the State shall not exercise the power of eminent  
12 domain to acquire a project or any part of the project for lease  
13 or transfer to a project party, nor shall the State operate a  
14 project on behalf of a project party."

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

17 "[+]§39A-282[+] Department powers in the development of  
18 low- and moderate-income housing. In addition to the powers  
19 ~~[that it may now have,]~~ presently authorized to the department  
20 by law, the department shall have all powers necessary or  
21 convenient to accomplish the purposes of this part. The powers  
22 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-284(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-284(b); and

9       (B) Submit an application to the department that  
10       describes the low- and moderate-income housing  
11       project 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) Includes a certified statement by the  
21       project party describing how the project has  
22       met or will meet the definition of "low- and



1                   moderate-income housing project", as defined  
2                   in section 39A-281;

3                   (iii) Includes a feasibility study of the project  
4                   prepared by an independent third party, and,  
5                   if a new project, a statement estimating the  
6                   number of persons or families who meet the  
7                   income-qualifying criteria that are likely  
8                   to purchase or rent the units in the  
9                   project;

10                   (iv) Includes audited financial statements for  
11                   the project party for the most recent three  
12                   years; and

13                   (v) Includes any other information required by  
14                   the department in order to determine whether  
15                   the project party is a responsible party;

16                   ~~[(1)]~~ (2) Notwithstanding and without compliance with  
17                   section 103-7~~[7]~~ and chapter 103D, but with the  
18                   approval of the governor, to:

19                   (A) Enter into and carry out a project agreement, or  
20                   an amendment or supplement to an existing project  
21                   agreement, with a project party; and

- 1 (B) Enter into and carry out any agreement whereby  
2 the obligation of a project party under a project  
3 agreement will be unconditionally guaranteed by a  
4 person other than a project party;
- 5 [~~+2~~] (3) To issue special purpose revenue bonds pursuant  
6 to and in accordance with this part;
- 7 [~~+3~~] (4) To lend the proceeds of the special purpose  
8 revenue bonds issued for a project to the project  
9 party for use and application by the project party for  
10 the project;
- 11 [~~+4~~] (5) As security for the payment of the principal,  
12 premium, if any, and interest of the special purpose  
13 revenue bonds issued for this project, to:
- 14 (A) Pledge, assign, hypothecate, or otherwise  
15 encumber all or any part of the revenues and  
16 receipts derived or to be derived by the  
17 department under the project agreement for the  
18 project for which the 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 18. Section 39A-312, Hawaii Revised Statutes, is  
22 amended to read as follows:





1 " ~~[+] §39A-312 [†]~~ Department powers as to agricultural  
2 enterprises serving important agricultural lands. In addition  
3 to the powers [that it may now have,] presently authorized to  
4 the department by law, the department shall have all powers  
5 necessary or convenient to accomplish the purposes of this part.  
6 The powers of the department include but are not limited to the  
7 following:

8 (1) To accept and evaluate materials pertaining to whether  
9 the project party is a responsible party, as described  
10 in section 39A-314(b), and to issue a pre-  
11 authorization certification to the project party. To  
12 qualify for a pre-authorization certification, a  
13 project party shall:

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

16 (B) Submit an application to the department that  
17 describes the agricultural enterprise serving  
18 important agricultural lands to be financed,  
19 which:

20 (i) Summarizes the proposed method of financing,  
21 construction cost estimates, and estimated  
22 construction completion date;



- 1           (ii) Indicates whether lands underlying the
- 2                   facility have been designated as important
- 3                   agricultural lands, or are capable of being
- 4                   designated as important agricultural lands
- 5                   and the steps being taken by the project
- 6                   party to have the lands designated;
- 7           (iii) Includes a study prepared by a third party,
- 8                   or a letter from the department of
- 9                   agriculture, regarding the feasibility of
- 10                  the facility;
- 11           (iv) Includes audited financial statements for
- 12                  the project party for the most recent three
- 13                  years; and
- 14           (v) Includes any other information required by
- 15                  the department in order to determine whether
- 16                  the project party is a responsible party;
- 17        [~~(1)~~] (2) Notwithstanding and without compliance with
- 18                  section 103-7[7] and chapter 103D, but with the
- 19                  approval of the governor, to:
- 20                  (A) Enter into and carry out a project agreement, or
- 21                        an amendment or supplement to an existing project
- 22                        agreement, with a project party; and



1 (B) Enter into and carry out any agreement whereby  
2 the obligation of a project party under a project  
3 agreement will be unconditionally guaranteed by a  
4 person other than a project party;

5 [~~2~~] (3) To issue special purpose revenue bonds pursuant  
6 to and in accordance with this part;

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

14 [~~4~~] (5) As security for the payment of the principal,  
15 premium, if any, and interest of the special purpose  
16 revenue bonds issued for a project, to:

17 (A) Pledge, assign, hypothecate, or otherwise  
18 encumber all or any part of the revenues and  
19 receipts derived or to be derived by the  
20 department under the project agreement for the  
21 project for which the bonds are issued;



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

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

8 (D) Any combination of the foregoing;

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

16 ~~[(6)]~~ (7) To do any and all things necessary or convenient  
17 to carry out its purposes and exercise the powers  
18 given and granted in this part.

19 When the department finances or refines a project by the  
20 issuance of special purpose revenue bonds as contemplated by  
21 this part, the State shall not exercise the power of eminent  
22 domain to acquire a project or any part thereof for lease or



1 transfer to a project party, nor shall the State operate a  
2 project on behalf of a project party."

3 SECTION 19. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

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

6



**Report Title:**

Special Purpose Revenue Bonds; Pre-Authorization Certification

**Description:**

Requires an applicant for a special purpose revenue bond to apply for 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.*

