

JAN 23 2009

A BILL FOR AN ACT

RELATING TO DISTRICT-WIDE IMPROVEMENT PROGRAMS.

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

1 SECTION 1. Section 206E-6, Hawaii Revised Statutes, is
2 amended as follows:
3 1. By amending subsections (b), (c), (d), and (e) to read:
4 "(b) Whenever the authority [~~shall determine to~~
5 ~~undertake,~~] undertakes, or [~~cause~~] causes to be undertaken, any
6 public facility as part of the district-wide improvement
7 program, the cost of providing the public facilities [~~shall~~] may
8 be assessed against the real property in the community
9 development district specially benefiting from such public
10 facilities~~[-]~~, taking into consideration such factors as
11 determined by the authority, which may include special or
12 general benefits conferred upon the real property, and impacts
13 and burdens created by the assessment. The authority shall
14 determine the areas of the community development district which
15 will benefit from the public facilities to be undertaken and, if
16 less than the entire community development district benefits,
17 the authority may establish assessment areas within the
18 community development district. [~~The authority may issue and~~



1 ~~sell bonds in such amounts as may be authorized by the~~
2 ~~legislature to provide funds to finance such public facilities.]~~
3 The authority [~~shall~~] may fix the assessments against real
4 property specially benefited. All assessments made pursuant to
5 this section shall be a statutory lien against each lot or
6 parcel of land assessed from the date of the notice declaring
7 the assessment until paid and such lien shall have priority over
8 all other liens except the lien of property taxes. As between
9 liens of assessments, the earlier lien shall be superior to the
10 later lien.

11 (c) The authority may issue and sell bonds in such amounts
12 as may be authorized by the legislature to provide funds to
13 finance such public facilities. Bonds issued to provide funds
14 to finance public facilities shall be secured solely by the real
15 properties benefited or improved, the assessments thereon, or by
16 the revenues derived from the program for which the bonds are
17 issued, including reserve accounts and earnings thereon,
18 insurance proceeds, and other revenues, or any combination
19 thereof. The bonds may be additionally secured by the pledge or
20 assignment of loans and other agreements or any note or other
21 undertaking, obligation, or property held by the authority.
22 Bonds issued pursuant to this section and the income therefrom



1 shall be exempt from all state and county taxation, except
2 transfer and estate taxes. The bonds shall be issued according
3 and subject to the provisions of the rules adopted pursuant to
4 this section.

5 (d) Any other law to the contrary notwithstanding, [~~an~~
6 assessing] if real property is assessed for public facilities,
7 the authority shall assess the real property within an
8 assessment area according to the special benefits conferred upon
9 the real property by the public facilities. These methods may
10 include assessment on a frontage basis or according to the area
11 of real property within an assessment area or any other
12 assessment method which assesses the real property according to
13 the special benefit conferred, or any combination thereof. No
14 such assessment levied against real property specially benefited
15 as provided by this chapter shall constitute a tax on real
16 property within the meanings of any constitutional or statutory
17 provisions.

18 (e) The authority shall adopt rules pursuant to chapter
19 91, and may amend the rules from time to time, providing for the
20 method of undertaking and financing public facilities in an
21 assessment area or an entire community development district.
22 The rules adopted pursuant to this section shall include[7] but



1 are not limited to[7] the following: methods by which the
2 authority shall establish assessment areas; the method of
3 assessment of real properties specially benefited; the costs to
4 be borne by the authority, the county in which the public
5 facilities are situated, and the property owners[+], if any; the
6 procedures before the authority relating to the creation of the
7 assessment areas by the owners of real property therein,
8 including provisions for petitions, bids, contracts, bonds, and
9 notices; provisions relating to assessments; provisions relating
10 to financing, such as bonds, revolving funds, advances from
11 available funds, special funds for payment of bonds, payment of
12 principal and interest, and sale and use of bonds; provisions
13 relating to funds and refunding of outstanding debts; and
14 provisions relating to limitations on time to sue, and other
15 related provisions."

16 2. By amending subsection (h) to read:

17 "(h) If the public facilities to be financed through bonds
18 issued by the authority [~~may~~] are intended to be dedicated to
19 the county in which the public facilities are to be located, the
20 authority shall ensure that the public facilities are designed
21 and constructed to meet county requirements."



S.B. NO. 721

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

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

INTRODUCED BY: Carol Fukushima

James H. Slom
D. H.

Erzanne Chun Oakland

P. J. J. J.



Report Title:

District-Wide Improvement Programs; Assessments

Description:

Changes the authority of the Hawaii Community Development Authority to assess the costs of providing public facilities against real property in the community development district from mandatory to discretionary.

