
A BILL FOR AN ACT

RELATING TO HIGH TECHNOLOGY.

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

1 SECTION 1. The legislature finds that the aerospace
2 industry offers great potential for sustainable long-term
3 economic growth that will help drive investment to Hawaii and
4 create high paying, sustainable, green jobs both now and in the
5 future. Development of an aerospace high technology park on the
6 island of Hawaii will create an environment that will attract
7 major aerospace and lunar transportation companies that will
8 have access to an analog research site providing these companies
9 the ability to test equipment and technologies in environments
10 identical to those in outer space, such as on the moon and near
11 earth objects, as well as access to the University of Hawaii and
12 to each other.

13 The legislature also finds that such a park will offer
14 educational and career opportunities to students of the
15 University of Hawaii at Hilo, which will make the university
16 more attractive to future students and will provide
17 opportunities for the commercialization of intellectual property



1 developed at the University of Hawaii at Hilo through research
2 dollars invested in the university.

3 Additionally, the legislature finds that an aerospace high
4 technology park will create an additional influx of research
5 dollars through the nexus that such a park and its participants
6 will have with the university. Such a park will allow tenants
7 to engage in activities with each other, potentially leading to
8 the development and commercialization of unforeseen technologies
9 in a number of diverse areas beyond the aerospace industry
10 alone.

11 However, to ensure the smooth development of an aerospace
12 high technology park, the legislature finds that certain
13 regulatory tax incentives through an enterprise zone system
14 would help to facilitate the creation and establishment of these
15 activities while tying into job creation and other metrics to
16 ensure that the economic activities envisioned occurs. Also,
17 the State must make it clear that the activities in the park are
18 considered a permitted use of the agricultural district that
19 includes the location of the proposed park, precluding the need
20 to obtain variances or other exceptions from the appropriate
21 government entities.

22 Accordingly, the purpose of this Act is to:



- 1 (1) Establish aerospace high technology enterprise zones
- 2 in the State;
- 3 (2) Allow an aerospace high technology park in the land
- 4 use agricultural district by specific permit; and
- 5 (3) Require the University of Hawaii to extend the lease
- 6 of the high technology development corporation.

7 SECTION 2. The Hawaii Revised Statutes is amended by
8 adding a new chapter to be appropriately designated and to read
9 as follows:

10 "CHAPTER

11 AEROSPACE HIGH TECHNOLOGY ENTERPRISE ZONES

12 § -1 Definitions. As used in this chapter:

13 "Aerospace facility" includes aerospace, processing,
14 manufacturing, research, or instructional enterprises for
15 aerospace high technology, commercial or experimental rocketry,
16 satellite, lunar, nextgen avionics, solid waste resource
17 recovery systems, enterprises for the development, processing,
18 or transmission of alternative energy, industrial parks under
19 chapter 206M, retail, including food serving establishments, and
20 wholesale, industry, processing, transportation, or
21 manufacturing enterprises the primary purpose of which is to



1 serve or provide products to the aerospace high technology
2 enterprises or their employees.

3 "Aerospace high technology enterprise zone" means any area
4 in the State declared by the department to be eligible for
5 benefits pursuant to this chapter.

6 "Department" means the department of business, economic
7 development, and tourism.

8 "Establishment" means a single physical location where
9 aerospace high technology services are provided in an aerospace
10 facility. A qualified business may include one or more
11 establishments, any number of which may be in a aerospace high
12 technology enterprise zone.

13 "Full-time employee" means any employee for whom the
14 employer is legally required to provide employee fringe
15 benefits.

16 "Qualified business" means any aerospace facility that:

- 17 (1) Is authorized to do business in this State;
- 18 (2) Is located within the aerospace high technology
19 enterprise zone; and
- 20 (3) Meets the eligibility requirements set forth in
21 section -6.



1 "Taxes due the State" means income taxes due under chapter
2 235.

3 **§ -2 Administration.** The department shall administer
4 this chapter and have the power and duty to:

- 5 (1) Monitor the implementation and operation of this
6 chapter;
- 7 (2) Conduct continuing evaluations of the aerospace high
8 technology enterprise zones program;
- 9 (3) Assist the counties in obtaining the reduction of
10 rules within aerospace high technology enterprise
11 zones;
- 12 (4) Submit annual reports to the legislature and the
13 governor evaluating the effectiveness of the program
14 and proposing any recommended legislation;
- 15 (5) Administer and enforce rules adopted by the
16 department; and
- 17 (6) Administer this chapter in a manner such that the
18 areas designated as aerospace high technology
19 enterprise zones will provide the most benefit to the
20 areas and the State.

21 **§ -3 Aerospace high technology enterprise zone**
22 **designation; approval.** (a) After receiving:

1 (1) A description of a proposed location in a county for a
2 aerospace high technology enterprise zone; and

3 (2) A general statement identifying proposed county
4 incentives to complement any state and federal
5 incentives,

6 from the governing body of the county, the department shall
7 consider and may designate the proposed area as an aerospace
8 high technology enterprise zone.

9 (b) The department shall acquire from the county any
10 additional information that the department deems necessary and
11 shall approve the establishment of the aerospace high technology
12 enterprise zone for a period of three years.

13 **§ -4 Duplicative tax incentives; prohibition.** There
14 shall be no duplication of existing state tax incentives to
15 qualified businesses that are located in an aerospace high
16 technology enterprise zone.

17 **§ -5 Rules.** (a) The department, in consultation with
18 the department of taxation, shall adopt rules pursuant to
19 chapter 91 to implement this chapter, including rules relating
20 to health, safety, building, planning, zoning, and land use.
21 Rules adopted pursuant to this section shall supersede all other
22 inconsistent ordinances and rules relating to the use, zoning,



1 planning, and development of land and construction in a
2 aerospace high technology enterprise zone; provided that rules
3 adopted pursuant to this section shall conform to existing law,
4 rules, and ordinances as closely as possible to comply with
5 minimum standards for energy efficiency, health, and safety.

6 (b) The department may provide by rule that lands within
7 an aerospace high technology enterprise zone shall not be
8 developed beyond existing uses or that improvements thereon
9 shall not be demolished or substantially reconstructed or
10 provide other restrictions on the use of the zone.

11 **§ -6 Eligibility; qualified business; sale of property**
12 **or services.** (a) Any aerospace facility may be eligible to be
13 designated a qualified business for purposes of this chapter if:

14 (1) The aerospace facility begins operations in an
15 aerospace high technology enterprise zone and:

16 (A) During each taxable year has at least twenty-five
17 per cent of its aerospace high technology
18 enterprise zone establishment's gross receipts
19 attributable to its operation within the
20 aerospace high technology enterprise zone;

21 (B) Increases its average annual number of full-time
22 aerospace professional employees by at least



1 twenty-five per cent by the end of its first tax
2 year of participation; and

3 (C) During each subsequent taxable year maintains the
4 level of employment established to meet the
5 requirements of paragraph (1)(B) or greater for
6 aerospace professional employees; or

7 (2) The aerospace facility:

8 (A) Is actively engaged in the operation of a
9 aerospace facility in an area immediately prior
10 to the area being designated an aerospace high
11 technology enterprise zone;

12 (B) Meets the requirements of paragraph (1)(B); and

13 (C) Increases its average annual number of full-time
14 employees employed at the aerospace facility's
15 establishment or establishments located within
16 the aerospace high technology enterprise zone by
17 at least ten per cent annually.

18 (b) After approval of the aerospace high technology
19 enterprise zone, each qualified business in the aerospace high
20 technology enterprise zone shall annually complete and submit to
21 the department, on an application prescribed by the department,
22 the information necessary for the department to determine



1 whether the aerospace facility qualifies or continues to qualify
2 as a qualified business. If the department determines that the
3 aerospace facility qualifies as a qualified business, the
4 department shall approve the application and notify the
5 department of taxation and the relevant governing body of the
6 county.

7 (c) A completed application approved by the department,
8 pursuant to subsection (b), shall be prima facie evidence of the
9 eligibility of an aerospace facility for the purposes of this
10 section.

11 (d) Any operations or services provided by a aerospace
12 facility outside of the aerospace high technology enterprise
13 zone shall not be included for the purposes of determining gross
14 receipts attributable to the active provision of services under
15 subsection (a).

16 **§ -7 State business tax credit.** (a) The department
17 shall certify annually to the department of taxation the
18 applicability of the tax credit provided in this section for a
19 qualified business against any income taxes imposed under
20 chapter 235. The credit shall be twenty-five per cent of the
21 tax due for the first three taxable years that the business



1 qualifies as a qualified business. Any tax credit not used in a
2 taxable year shall not be applied to future taxable years.

3 (b) When a partnership is eligible for a tax credit under
4 this section, each partner shall be eligible for the tax credit
5 in proportion to that partner's income tax liability from the
6 partnership. Any qualified business earning taxable income from
7 the provision of the qualified business's services, both within
8 and without the aerospace high technology enterprise zone, shall
9 allocate and apportion its taxable income attributable to that
10 provision of services. Tax credits provided for in this section
11 shall only apply to taxable income of a qualified business
12 attributable to the services provided within the aerospace high
13 technology enterprise zone.

14 (c) In addition to any other tax credit authorized under
15 this section, a qualified business shall be entitled to a tax
16 credit against any taxes due the State in an amount equal to a
17 percentage of unemployment taxes paid pursuant to chapter 383.
18 The amount of the credit shall be equal to twenty five per cent
19 of the unemployment taxes paid for during the first three
20 taxable years that the business qualifies as a qualified
21 business.



1 (d) Tax credits provided for in subsection (c) shall only
2 apply to the unemployment tax paid on employees employed at the
3 qualified business's establishment or establishments located
4 within the aerospace high technology enterprise zone. Any tax
5 credit not used in a taxable year shall not be applied to future
6 tax years.

7 **§ -8 State general excise and use tax exemptions.** The
8 department shall certify annually to the department of taxation
9 that any qualified business is exempt from the payment of taxes
10 pursuant to chapter 237 on the gross proceeds from the provision
11 of aerospace services and taxes pursuant to chapter 238 for
12 purchases by the qualified business. The gross proceeds
13 received by a contractor licensed under chapter 444 shall be
14 exempt from taxation under chapter 237 for construction within
15 an aerospace high technology enterprise zone performed for a
16 qualified business within an aerospace high technology
17 enterprise zone. The exemption in this section shall extend for
18 a period not to exceed three years after the effective date of
19 this chapter.

20 **§ -9 Local incentives.** (a) A county may propose local
21 incentives, including:

22 (1) Reduction of permit fees;



- 1 (2) Reduction of user fees; and
- 2 (3) Reduction of real property taxes.
- 3 (b) A county may also propose measures for regulatory
- 4 flexibility including:
- 5 (1) Special zoning districts;
- 6 (2) Permit process reform;
- 7 (3) Exemptions from local ordinances; and
- 8 (4) Other public incentives proposed in the locality's
- 9 application, which shall be binding upon the locality
- 10 upon designation of the aerospace high technology
- 11 enterprise zone.

12 **§ -10 Termination of aerospace high technology**

13 **enterprise zone.** Upon designation of the area as an aerospace

14 high technology enterprise zone, the proposals for regulatory

15 flexibility, tax incentives, and other public incentives

16 specified in this chapter shall be binding upon the governing

17 body of the county for a period of three years. If the

18 governing body of the county is unable or unwilling to provide

19 any of the incentives set forth in section -9 or other

20 incentives acceptable to the department, and the department has

21 not adopted rules pursuant to section -5 that supersede

22 inconsistent ordinances and rules relating to the use, zoning,

1 planning, and development of land and construction in a
 2 aerospace high technology enterprise zone, then the aerospace
 3 high technology enterprise zone shall terminate. Qualified
 4 businesses located in the aerospace high technology enterprise
 5 zone shall be eligible to receive the tax incentives provided by
 6 this chapter even though the zone designation has terminated.
 7 No aerospace facility may become a qualified business after the
 8 date of zone termination."

9 SECTION 3. Section 205-6, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "§205-6 Special permit. (a) Subject to this section, the
 12 county planning commission may permit certain unusual and
 13 reasonable uses within agricultural and rural districts other
 14 than those for which the district is classified. Any person who
 15 desires to use the person's land within an agricultural or rural
 16 district other than for an agricultural or rural use, as the
 17 case may be, may petition the planning commission of the county
 18 within which the person's land is located for permission to use
 19 the person's land in the manner desired. Each county may
 20 establish the appropriate fee for processing the special permit
 21 petition. Copies of the special permit petition shall be



1 forwarded to the land use commission, the office of planning,
2 and the department of agriculture for their review and comment.

3 (b) The planning commission, upon consultation with the
4 central coordinating agency, except in counties where the
5 planning commission is advisory only in which case the central
6 coordinating agency, shall establish by rule or regulation, the
7 time within which the hearing and action on petition for special
8 permit shall occur. The county planning commission shall notify
9 the land use commission and such persons and agencies that may
10 have an interest in the subject matter of the time and place of
11 the hearing.

12 (c) The county planning commission may, under such
13 protective restrictions as may be deemed necessary, permit the
14 desired use, but only when the use would promote the
15 effectiveness and objectives of this chapter; provided that a
16 use proposed for designated important agricultural lands shall
17 not conflict with any part of this chapter. A decision in favor
18 of the applicant shall require a majority vote of the total
19 membership of the county planning commission.

20 (d) Special permits for land the area of which is greater
21 than fifteen acres or for lands designated as important
22 agricultural lands shall be subject to approval by the land use



1 commission. The land use commission may impose additional
2 restrictions as may be necessary or appropriate in granting the
3 approval, including the adherence to representations made by the
4 applicant.

5 (e) A copy of the decision, together with the complete
6 record of the proceeding before the county planning commission
7 on all special permit requests involving a land area greater
8 than fifteen acres or for lands designated as important
9 agricultural lands, shall be transmitted to the land use
10 commission within sixty days after the decision is rendered.

11 Within forty-five days after receipt of the complete record
12 from the county planning commission, the land use commission
13 shall act to approve, approve with modification, or deny the
14 petition. A denial either by the county planning commission or
15 by the land use commission, or a modification by the land use
16 commission, as the case may be, of the desired use shall be
17 appealable to the circuit court of the circuit in which the land
18 is situated and shall be made pursuant to the Hawaii rules of
19 civil procedure.

20 (f) Land uses substantially involving or supporting
21 educational ecotourism, related to the preservation of native
22 Hawaiian endangered, threatened, proposed, and candidate



1 species, that are allowed in an approved habitat conservation
2 plan under section 195D-21 or safe harbor agreement under
3 section 195D-22, which are not identified as permissible uses
4 within the agricultural district under sections 205-2 and 205-
5 4.5, may be permitted in the agricultural district by special
6 permit under this section, on lands with soils classified by the
7 land study bureau's detailed land classification as overall
8 (master) productivity rating class C, D, E, or U.

9 (g) An aerospace high technology park may be permitted in
10 the agricultural district by special permit under this section,
11 on lands with soil classified by the land study bureau's
12 detailed land classification as overall (master) productivity
13 rating class C, D, or E.

14 For purposes of this subsection:

15 "Aerospace high technology park" include aerospace,
16 processing, manufacturing, research, or instructional
17 enterprises for aerospace high technology, commercial or
18 experimental rocketry, satellite, lunar, nextgen avionics, solid
19 waste resource recovery systems, enterprises for the
20 development, processing, or transmission of alternative energy,
21 industrial parks as defined in section 206M-1, retail, including
22 food serving establishments, and wholesale, industry,



1 processing, transportation, or manufacturing enterprises the
2 primary purpose of which is to serve or provide products to the
3 aerospace high technology enterprises or their employees.

4 "Alternative energy" means energy derived other than from
5 the processing of petroleum.

6 "High technology" includes computer software and hardware,
7 microprocessors, telecommunication devices, and robotics."

8 SECTION 4. The University of Hawaii shall extend the
9 current land lease agreement with the high technology
10 development corporation, located at 2800 Woodlawn Drive, Manoa,
11 Honolulu, Hawaii, identified as tax map key 2-9-26: por. 3, 37,
12 and 38, on the same terms and for a period no less than twenty-
13 five years from the expiration date of the existing lease.

14 SECTION 5. The director of business, economic development,
15 and tourism, pursuant to this Act, shall designate tax map key
16 1-6-146, 1-6-148, 1-6-151, and 1-6-03 on the island of Hawaii,
17 as the pilot aerospace high technology enterprise zone for a
18 period of ten years.

19 SECTION 6. The department of business, economic
20 development, and tourism, in consultation with the department of
21 taxation, shall submit a written report to the legislature by
22 December 31 of each year, beginning in 2012, regarding the



1 implementation of the pilot aerospace high technology enterprise
2 zones in Hawaii county, including an evaluation of the success
3 or failure of the pilot aerospace high technology enterprise
4 zones in fulfilling their intended purposes.

5 SECTION 7. It is the intent of this Act not to jeopardize
6 the receipt of any federal aid nor to impair the obligation of
7 the State or any agency thereof to the holders of any bond
8 issued by the State or by any agency, and to the extent, and
9 only to the extent, necessary to effectuate this intent, the
10 governor may modify the strict provisions of this Act, but shall
11 promptly report any modification with reasons therefore to the
12 legislature at its next regular session thereafter for review by
13 the legislature.

14 SECTION 8. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun, before its effective date.

17 SECTION 9. If any provision of this Act, or the
18 application thereof to any person or circumstance is held
19 invalid, the invalidity does not affect other provisions or
20 applications of the Act, which can be given effect without the
21 invalid provision or application, and to this end the provisions
22 of this Act are severable.



- 1 SECTION 10. New statutory material is underscored.
- 2 SECTION 11. This Act shall take effect on July 1, 2012.



Report Title:

Aerospace High Technology Parks; Enterprise Zone; Agricultural District; Special Permit; University of Hawaii; Land Lease

Description:

Authorizes the establishment of aerospace high technology enterprise zones. Requires report to the Legislature on pilot aerospace high technology enterprise zone. Authorizes aerospace high technology parks by special permit within certain agricultural districts. Requires the University of Hawaii to extend the current land lease with the high technology development corporation. Effective July 1, 2012. (SB2941 HD2)

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