

1 ~~technology development corporation shall serve as an ex officio,~~
2 ~~nonvoting member of the high technology innovation corporation~~
3 ~~board. The remaining four members shall be appointed by the~~
4 ~~governor from lists of nominees provided by the president of the~~
5 ~~senate and the speaker of the house of representatives. The~~
6 ~~governor shall appoint two persons from the list submitted by~~
7 ~~the president of the senate and two persons from the list~~
8 ~~submitted by the speaker of the house of representatives. The~~
9 ~~lists of nominees provided by the president of the senate and~~
10 ~~the speaker of the house of representatives shall consist of~~
11 ~~members of the general public selected on the basis of their~~
12 ~~knowledge, interest, and proven expertise in, but not limited~~
13 ~~to, one or more of the following fields: finance, commerce and~~
14 ~~trade, corporate management, marketing, economics, engineering,~~
15 ~~information technology and telecommunications, life sciences,~~
16 ~~and other high technology fields. All the members appointed~~
17 ~~from the general public shall serve for a term of four years,~~
18 ~~except that half of those initially appointed from the public~~
19 ~~may have reduced terms in accordance with section 26-34, so as~~
20 ~~to provide, as nearly as can be, for the expiration of an equal~~
21 ~~number of terms at intervals of one year, with each term~~



1 ~~commencing on July 1 and expiring on June 30.]~~ The members of
2 the board shall be as follows:

3 (1) The executive director and chief executive officer of
4 the high technology development corporation;

5 (2) The state film commissioner of the Hawaii film office;

6 (3) The president of the Hawaii strategic development
7 corporation;

8 (4) The executive director of the natural energy
9 laboratory of Hawaii authority;

10 (5) The executive director of the agribusiness development
11 corporation;

12 (6) The executive director of the Hawaii housing finance
13 development corporation; and

14 (7) The energy administrator of the Hawaii state energy
15 office."

16 **PART II**

17 SECTION 3. Chapter 394, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§394- Workforce development training program. (a) The
21 department of labor and industrial relations shall administer a
22 workforce development training program that provides wage



1 reimbursement for on-the-job training to persons who are newly
2 hired by motion picture, digital media, television, and film
3 production entities that are prequalified by the department of
4 business, economic development, and tourism to receive a tax
5 credit as described in section 235-17(f). These prequalified
6 entities shall be eligible for a fifty per cent reimbursement of
7 wages, not to exceed a maximum duration of one thousand forty
8 hours per employee who receive on-the-job training, is newly
9 hired in a job paying at least thirty-two hours per week.
10 Wages, fringe benefits, and other benefits paid to the new hire
11 shall be the same or comparable to others similarly employed by
12 that entity. The entity shall not be reimbursed for fringe and
13 other benefits. The new hire shall be guaranteed full-time
14 employment of a minimum of thirty-two hours per week with the
15 entity upon successful completion of the training period or upon
16 the termination of the motion picture, digital media,
17 television, or film production.

18 (b) The director may adopt rules pursuant to chapter 91 to
19 carry out the purposes of this section."

20 SECTION 4. Section 235-17, Hawaii Revised Statutes, is
21 amended as follows:

22 1. By amending subsection (h) to read:



1 "(h) Every taxpayer claiming a tax credit under this
2 section for a qualified production shall, no later than ninety
3 days following the end of each taxable year in which qualified
4 production costs were expended, submit a written, sworn
5 statement to the department of business, economic development,
6 and tourism, identifying:

- 7 (1) All qualified production costs as provided by
- 8 subsection (a), if any, incurred in the previous
- 9 taxable year;
- 10 (2) The amount of tax credits claimed pursuant to this
- 11 section, if any, in the previous taxable year; and
- 12 (3) The number of total hires versus the number of local
- 13 hires by category [~~i.e., department~~] and by county."

14 2. By amending subsection (1) to read:

15 "(1) For the purposes of this section:

16 "Commercial":

- 17 (1) Means an advertising message that is filmed using
- 18 film, videotape, or digital media, for dissemination
- 19 via television broadcast or theatrical distribution;
- 20 (2) Includes a series of advertising messages if all parts
- 21 are produced at the same time over the course of six
- 22 consecutive weeks; and

1 (3) Does not include an advertising message with Internet-
2 only distribution.

3 "Digital media" means production methods and platforms
4 directly related to the creation of cinematic imagery and
5 content, specifically using digital means, including but not
6 limited to digital cameras, digital sound equipment, and
7 computers, to be delivered via film, videotape, interactive game
8 platform, or other digital distribution media [~~excluding~~
9 ~~Internet-only distribution~~].

10 [~~"Post-production"~~] "Post-production" means production
11 activities and services conducted after principal photography is
12 completed, including but not limited to editing, film and video
13 transfers, duplication, transcoding, dubbing, subtitling,
14 credits, closed captioning, audio production, special effects
15 (visual and sound), graphics, and animation.

16 "Production" means a series of activities that are directly
17 related to the creation of visual and cinematic imagery to be
18 delivered via film, videotape, or digital media and to be sold,
19 distributed, or displayed as entertainment or the advertisement
20 of products for mass public consumption, including but not
21 limited to scripting, casting, set design and construction,



1 transportation, videography, photography, sound recording,
2 interactive game design, and [~~post-production.~~] post-production.

3 "Qualified production":

4 (1) Means a production, with expenditures in the State,
5 for the total or partial production of a feature-
6 length motion picture, short film, made-for-television
7 movie, commercial, music video, interactive game,
8 television series pilot, single season (up to twenty-
9 two episodes) of a television series regularly filmed
10 in the State (if the number of episodes per single
11 season exceeds twenty-two, additional episodes for the
12 same season shall constitute a separate qualified
13 production), television special, single television
14 episode that is not part of a television series
15 regularly filmed or based in the State, national
16 magazine show, or national talk show. For the
17 purposes of subsections (d) and (j), each of the
18 aforementioned qualified production categories shall
19 constitute separate, individual qualified productions;
20 and

21 (2) Does not include: [~~daily news; public~~]

22 (A) News;



- 1 (B) Public affairs programs; [~~non-national~~]
- 2 (C) Non-national magazine or talk shows; [~~televised~~]
- 3 (D) Televised sporting events or activities;
- 4 [~~productions~~]
- 5 (E) Productions that solicit funds; [~~productions~~]
- 6 (F) Productions produced primarily for industrial,
- 7 corporate, institutional, or other private
- 8 purposes; and [~~productions~~]
- 9 (G) Productions that include any material or
- 10 performance prohibited by chapter 712.

11 "Qualified production costs" means the costs incurred by a
12 qualified production within the State that are subject to the
13 general excise tax under chapter 237 or income tax under this
14 chapter and that have not been financed by any investments for
15 which a credit was or will be claimed pursuant to section
16 235-110.9. Qualified production costs include but are not
17 limited to:

- 18 (1) Costs incurred during preproduction such as location
- 19 scouting and related services;
- 20 (2) Costs of set construction and operations, purchases or
- 21 rentals of wardrobe, props, accessories, food, office



- 1 supplies, transportation, equipment, and related
2 services;
- 3 (3) Wages or salaries of cast, crew, and musicians;
- 4 (4) Costs of photography, sound synchronization, lighting,
5 and related services;
- 6 (5) Costs of editing, visual effects, music, other post-
7 production, and related services;
- 8 (6) Rentals and fees for use of local facilities and
9 locations [7], but excluding state and county facility
10 and location fees that are not subject to the general
11 excise tax under chapter 237 or income tax under this
12 chapter;
- 13 (7) Rentals of vehicles and lodging for cast and crew;
- 14 (8) Airfare for flights to or from Hawaii, and interisland
15 flights;
- 16 (9) Insurance and bonding;
- 17 (10) Shipping of equipment and supplies to or from Hawaii,
18 and interisland shipments; and
- 19 (11) Other direct production costs specified by the
20 department in consultation with the department of
21 business, economic development, and tourism."



1 SECTION 5. Act 88, Session Laws of Hawaii 2006, is amended
2 by amending section 4 to read as follows:

3 "SECTION 4. This Act shall take effect on July 1, 2006;
4 provided that:

5 (1) Section 2 of this Act shall apply to qualified
6 production costs incurred on or after July 1, 2006,
7 and before January 1, [~~2016~~] 2025; and

8 (2) This Act shall be repealed on January 1, [~~2016~~] 2025,
9 and section 235-17, Hawaii Revised Statutes, shall be
10 reenacted in the form in which it read on the day
11 before the effective date of this Act."

12 SECTION 6. The department of business, economic
13 development, and tourism shall submit an annual report to the
14 legislature twenty days prior to each regular session beginning
15 with the 2014 regular session. The report shall contain a cost
16 benefit analysis of the motion picture, digital media, and film
17 production income tax credit, including but not limited to the
18 following:

19 (1) The total number of full-time, part-time, and contract
20 personnel on the payroll necessary to administer the
21 film production tax credit; and



1 (2) The average wage of each of the above personnel groups
2 and total earnings for the year.

3 The department of business, economic development, and
4 tourism shall report the data collected under this section along
5 with a cumulative total of tax credits granted for each
6 qualified production. The legislature may use the information
7 to determine whether the tax credits are meeting the objectives
8 of the motion picture, digital media, and film production tax
9 credit and this part.

10 SECTION 7. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so
12 much thereof as may be necessary for fiscal year 2013-2014 and
13 the same sum or so much thereof as may be necessary for fiscal
14 year 2014-2015 for the implementation of the workforce
15 development training program established by this part.

16 The sums appropriated shall be expended by the department
17 of labor and industrial relations for the purposes of this part.

18 **PART III**

19 SECTION 8. The Hawaii Revised Statutes is amended by
20 adding a new chapter to be appropriately designated and to read
21 as follows:

22 **"CHAPTER**



1 PUBLIC-PRIVATE PARTNERSHIP AUTHORITY

2 § -1 Findings and purpose. The legislature finds that
3 these are difficult economic times for all levels of government,
4 as public service demands for an increasing population put
5 pressure on revenue resources. The State faces the challenge of
6 balancing a budget while addressing escalating infrastructure
7 and service needs. Due to insufficient funding and postponed
8 maintenance, the daily demands continue to increase.

9 Governments around the world have been engaging in public-
10 private partnerships to address these economic challenges.
11 State agencies are hamstrung by their limited missions and
12 dwindling resources. Creating a partnership agency to
13 collaborate with all state agencies and private sector entities
14 may help to deliver services and facilities more effectively.

15 The purpose of this chapter is to create a vehicle and
16 process to use the skills and assets of both the public and
17 private sectors to deliver services and facilities for the
18 economic, environmental, and social benefit of the people of
19 Hawaii. This chapter establishes the public-private partnership
20 authority to administer appropriate and culturally-sensitive
21 projects. The authority shall coordinate and administer
22 projects, while ensuring that resources are maintained for the



1 people of Hawaii. The authority shall identify projects that
2 are suitable under this chapter, carry out appropriate analyses,
3 enter into public-private agreements, and provide leadership for
4 the facilitation of financing, improvement, or enhancement of
5 appropriate facilities, operations, and property.

6 § -2 **Definitions.** As used in this chapter, unless the
7 context clearly requires otherwise:

8 "Authority" means the public-private partnership authority.

9 "Board" means the board of directors of the public-private
10 partnership authority.

11 "Cooperative agreement" means an instrument, such as a
12 contract, compact, memorandum of understanding, or agreement,
13 that is signed and binding upon all parties to the agreement.

14 "Management rights" means the authority to control and
15 manage projects.

16 "Project" means a specific undertaking related to the
17 operations and properties of any public agency, including and
18 not limited to:

- 19 (1) Development of plans for a public agency; and
- 20 (2) Planning, improvement, construction, rehabilitation,
21 alteration, maintenance, or repair of real property or
22 energy generation.



1 "Qualified person" means any individual, partnership,
2 corporation, not-for-profit organization, or public agency
3 possessing the competence, expertise, experience, and resources,
4 including financial, personnel, and tangible qualifications, as
5 deemed desirable by the authority.

6 § -3 **Public-private partnership authority; established.**

7 (a) There is established the public-private partnership
8 authority, which shall be a public body corporate and politic
9 and an instrumentality and agency of the State. The authority
10 shall be headed by a board of directors. The authority shall be
11 placed within the department of business, economic development,
12 and tourism for administrative purposes.

13 The authority shall:

- 14 (1) Identify projects that are suitable under this
15 chapter;
- 16 (2) Conduct analyses, as appropriate;
- 17 (3) Enter into public-private partnership agreements, as
18 appropriate; and
- 19 (4) Provide the leadership for public-private partnership
20 projects.

21 (b) The board of directors of the public-private
22 partnership authority shall consist of five voting members and



1 one ex officio, non-voting member. The voting members shall
2 include:

- 3 (1) The comptroller, or the first deputy to the
4 comptroller;
- 5 (2) The director of finance;
- 6 (3) The director of business, economic development, and
7 tourism;
- 8 (4) One member to be appointed by the speaker of the house
9 of representatives; and
- 10 (5) One member to be appointed by the president of the
11 senate.

12 The ex officio, non-voting member shall be the aha moku advisory
13 committee member of the moku in which the project is sited.

14 The members appointed by the speaker of the house of
15 representatives and the president of the senate shall possess
16 sufficient knowledge, experience, and proven expertise in small
17 and large businesses within the development or recreation
18 industries, banking, real estate, finance, promotion, marketing,
19 or management.

20 The term of office of the members appointed by the speaker
21 of the house of representatives and the president of the senate
22 shall be four years each.



1 (c) The board shall appoint an executive director, who
2 shall serve at the pleasure of the board and shall be exempt
3 from chapter 76. The salary of the executive director shall be
4 set by the board.

5 (d) The board, through its executive director, may appoint
6 officers, agents, and employees; prescribe their duties and
7 qualifications; and fix their salaries, without regard to
8 chapter 76.

9 § -4 Powers; generally. Except as otherwise limited by
10 this chapter, the authority may:

- 11 (1) Sue and be sued;
- 12 (2) Have a seal and alter the same at its pleasure;
- 13 (3) Make and alter bylaws for its organization and
14 internal management;
- 15 (4) Adopt rules under chapter 91 necessary to implement
16 this chapter in connection with its projects;
- 17 (5) Make and execute contracts and all other instruments
18 necessary or convenient for the exercise of its powers
19 and functions under this chapter;
- 20 (6) Manage projects by itself or in partnership with
21 qualified persons or other governmental agencies;



- 1 (7) Receive, examine, and determine the acceptability of
2 applications of qualified persons for public-private
3 partnerships;
- 4 (8) Coordinate its activities with any federal or state
5 programs;
- 6 (9) Provide advisory, consultative, training, and
7 educational services and technical assistance to any
8 person, partnership, or corporation, either public or
9 private, to carry out the purposes of this chapter,
10 and engage the services of consultants on a
11 contractual basis for rendering professional and
12 technical assistance and advice;
- 13 (10) Procure insurance against any loss in connection with
14 its property and other assets and operations in
15 amounts and from insurers as it deems desirable;
- 16 (11) Accept gifts or grants in any form from any public
17 agency or any other source;
- 18 (12) Coordinate with any public agency;
- 19 (13) Recommend to the appropriate public agency the
20 acquisition of any privately owned real or personal
21 property that may be appropriate for the purposes of
22 this chapter; and



1 (14) Do all things necessary or proper to carry out the
2 purposes of this chapter.

3 § -5 **Projects and plans.** (a) The authority may develop
4 plans and implement projects on behalf of public agencies, as
5 appropriate.

6 (b) The authority may enter into a cooperative agreement
7 with any public agency to implement projects on behalf of the
8 public agency.

9 (c) The authority may enter into cooperative agreements
10 with persons or public agencies when the powers, services, and
11 capabilities of the persons or agencies are deemed necessary and
12 appropriate.

13 (d) Prior to implementing any project, the authority shall
14 submit the proposed plan for the project, together with any
15 amendments, to and obtain the prior approval of the board and
16 any executive of an affected public agency.

17 § -6 **Approval of projects.** All projects to be developed
18 by the authority shall be approved by the board and any
19 executive of an affected public agency.

20 § -7 **Transfer of management rights.** (a)
21 Notwithstanding chapter 171 or any provision of this chapter to
22 the contrary, any public agency may transfer, subject to the



1 approval of the board or executive of the public agency,
2 management rights for projects under its jurisdiction to the
3 authority for purposes of this chapter.

4 (b) If the authority finds that projects under the control
5 and management of any public agency are suitable for its
6 purposes under this chapter, the authority may lease properties
7 from or agree to manage the properties of the agency having
8 jurisdiction, upon terms and conditions as agreed to by the
9 parties.

10 (c) Notwithstanding subsection (b) to the contrary, no
11 property shall be leased to the authority if the lease would
12 impair any covenant between the State or any county, or any
13 department or board thereof, and the holders of bonds issued by
14 the State or the county, or any department or board thereof.

15 § -8 **Public-private partnership revenues.** Any revenues
16 generated from public-private partnership projects and plans
17 developed pursuant to this chapter shall be deposited into the
18 general fund.

19 § -9 **Exemption from taxation.** The authority shall not
20 be required to pay state taxes of any kind.



1 § -10 **Application of chapter.** The authority and all
2 projects implemented under this chapter shall comply with all
3 state laws, other than the exemption from state taxes in § -9.

4 § -11 **Reports and evaluation.** (a) The authority shall
5 submit a complete and detailed annual report of its plans and
6 activities as follows:

7 (1) To the governor no later than twenty days prior to the
8 convening of each regular session; and

9 (2) To the legislature, no later than sixty days after the
10 submission of the report as specified in paragraph
11 (1).

12 (b) The board shall submit to the governor and the
13 legislature, no later than twenty days prior to the convening of
14 each regular session, an evaluation of the executive director
15 appointed pursuant to section -3."

16 SECTION 9. After the adoption of rules pursuant to section
17 -4(a)(4), Hawaii Revised Statutes, the public-private
18 partnership authority shall initiate pilot projects pursuant to
19 chapter , Hawaii Revised Statutes, as follows:

20 (1) A film production facility on state lands on the most
21 populous island of a county with a population between



1 one hundred thousand and one hundred seventy-five
2 thousand;

3 (2) A main-street project on state lands in Wahiawa, city
4 and county of Honolulu; and

5 (3) One county initiated project.

6 SECTION 10. The public-private partnership authority shall
7 include in its annual report to the governor and the legislature
8 required by section -11, Hawaii Revised Statutes, a detailed
9 report on the status of each pilot project.

10 The public-private partnership authority shall notify the
11 governor and the legislature upon the completion of each pilot
12 project and, within ninety days of each pilot project's
13 completion, submit a report to the governor and the legislature
14 containing a review and evaluation of each pilot project and any
15 recommendations to improve the effectiveness of chapter ,
16 Hawaii Revised Statutes.

17 SECTION 11. The public-private partnership authority shall
18 neither plan nor implement any projects other than the pilot
19 projects nor enter into any agreements or contracts related to
20 the planning or implementation of any projects other than the
21 pilot projects identified in this part.

1 SECTION 12. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2013-2014 and
4 the same sum or so much thereof as may be necessary for fiscal
5 year 2014-2015 for:

6 (1) The establishment and operation of the public-private
7 partnership authority pursuant to section 8 of this
8 Act; and

9 (2) The funding of staff positions.

10 The sums appropriated shall be expended by the department
11 of business, economic development, and tourism for the purposes
12 of this part.

13 **PART IV**

14 SECTION 13. If any provision of this Act, or the
15 application thereof to any person or circumstance, is held
16 invalid, the invalidity does not affect other provisions or
17 applications of the Act that can be given effect without the
18 invalid provision or application, and to this end the provisions
19 of this Act are severable.

20 SECTION 14. This Act does not affect rights and duties
21 that matured, penalties that were incurred, and proceedings that
22 were begun before its effective date.



1 SECTION 15. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 16. This Act shall take effect upon its approval;
4 provided that:

5 (1) Section 1 shall take effect on June 29, 2013;

6 (2) Section 7 shall take effect on July 1, 2013;

7 (3) Part II of this Act shall apply to taxable years
8 beginning after December 31, 2012, and before
9 January 1, 2025; and

10 (4) Part III of this Act shall take effect on July 1,
11 2013, and shall be repealed on July 1, 2018.

12



Report Title:

High Technology Innovation Corporation (HTIC); HTIC Board of Directors; Public-private Partnership Authority; Pilot Project; Creative Media Development; Tax Credit; Workforce Development Training Program; Appropriation

Description:

Part I extends the sunset date of the HTIC from 2013 to 2018 and changes the composition of the HTIC's board of directors. Part II establishes a workforce development training program that provides wage reimbursement for on-the-job training by entities who receive a motion picture, digital media, and film production tax credit; deletes internet-only distribution exclusion for advertising; clarifies definitions of qualified production costs; extends the sunset date of the tax credit to January 1, 2025; and appropriates funds for the training program. Part III establishes the public-private partnership authority (PPPA); requires the PPPA to initiate pilot projects; appropriates an unspecified sum for the PPPA; and repeals 07/01/2018. (Proposed SD1)

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

