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# A BILL FOR AN ACT

RELATING TO ECONOMIC DEVELOPMENT.

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

1 **PART I**

2 SECTION 1. Act 240, Session Laws of Hawaii 2012, is  
3 amended by amending section 8 to read as follows:

4 "SECTION 8. This Act shall take effect upon its approval;  
5 provided that section 6 shall take effect on June 30, [2013.]  
6 2018."

7 SECTION 2. Section 206M-52, Hawaii Revised Statutes, is  
8 amended as follows:

9 1. By amending subsection (a) to read:

10 "(a) The affairs of the high technology innovation  
11 corporation shall be under the general management and control of  
12 a board of directors consisting of nine voting members. [~~Four~~  
13 ~~members of the board of directors of the high technology~~  
14 ~~development corporation shall be ex officio, voting members of~~  
15 ~~the high technology innovation corporation's board and shall be~~  
16 ~~selected by the high technology development corporation's board~~  
17 ~~of directors for terms to be determined by the high technology~~  
18 ~~development corporation's board. The executive director and~~



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



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

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

5 (2) The division head of the creative industries division  
6 of the department of business, economic development,  
7 and tourism;

8 (3) The president of the Hawaii strategic development  
9 corporation;

10 (4) The executive director of the natural energy  
11 laboratory of Hawaii authority;

12 (5) The executive director of the agribusiness development  
13 corporation;

14 (6) The executive director of the Hawaii housing finance  
15 development corporation;

16 (7) The energy administrator of the Hawaii state energy  
17 office;

18 (8) One private business sector member to be appointed by  
19 the speaker of the house of representatives; and

20 (9) One private business sector member to be appointed by  
21 the president of the senate."

22 2. By amending subsection (c) to read:



1           "(c) ~~[The members of the high technology innovation~~  
2 ~~corporation's board shall elect]~~ The executive director and  
3 chief executive officer of the high technology development  
4 corporation shall serve as the chairperson of the board."

5           SECTION 3. Section 206M-55, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           "~~[+]§206M-55[+]~~ **Officers and employees of the innovation**  
8 **corporation.** ~~[The executive director and chief executive~~  
9 ~~officer of the high technology development corporation shall be~~  
10 ~~the president of the high technology innovation corporation.]~~  
11 The high technology innovation corporation's board of directors  
12 shall select the president of the high technology innovation  
13 corporation and may also appoint other officers and employees as  
14 may be necessary in administering the affairs of the high  
15 technology innovation corporation. The high technology  
16 innovation corporation's board of directors shall set the  
17 employees' duties, responsibilities, salaries, holidays,  
18 vacations, leaves, hours of work, and working conditions and may  
19 grant other benefits as it deems necessary. New employees of  
20 the innovation corporation shall not be entitled to any benefits  
21 conferred under chapter 76, 78, 88, or 89, or any public  
22 employee collective bargaining agreement, executive order,



1 executive directive, or rule; provided that any existing officer  
2 or employee of the State whose functions are transferred by this  
3 part shall not suffer any loss of salary, seniority, prior  
4 service credit, vacation, sick leave, or other employee benefit  
5 or privilege as a consequence of this part."

6 SECTION 4. Notwithstanding any law to the contrary, the  
7 terms of all currently appointed members of the high technology  
8 innovation corporation's board shall expire upon the effective  
9 date of this Act.

10 **PART II**

11 SECTION 5. The Hawaii Revised Statutes is amended by  
12 adding a new chapter to be appropriately designated and to read  
13 as follows:

14 **"CHAPTER**

15 **PUBLIC-PRIVATE PARTNERSHIP AUTHORITY**

16 § -1 **Findings and purpose.** The legislature finds that  
17 these are difficult economic times for all levels of government,  
18 as public service demands for an increasing population put  
19 pressure on revenue resources. The State faces the challenge of  
20 balancing its budget while addressing escalating infrastructure  
21 and service needs. Due to insufficient funding and postponed  
22 maintenance, these daily demands continue to increase.



1 Governments around the world have engaged in public-private  
2 partnerships to address these economic challenges. State  
3 agencies are hamstrung by their limited missions and dwindling  
4 resources. Creating a partnership agency to collaborate with  
5 all state agencies and private sector entities may help deliver  
6 services and facilities more effectively.

7 The purpose of this chapter is to create a means and  
8 process to use the skills and assets of both the public and  
9 private sectors to deliver services and facilities for the  
10 economic, environmental, and social benefit of the people of  
11 Hawaii. This chapter establishes the public-private partnership  
12 authority to administer appropriate and culturally-sensitive  
13 projects. The authority shall coordinate and administer  
14 projects, while ensuring that resources are maintained for the  
15 people of Hawaii. The authority shall identify suitable  
16 projects, carry out appropriate analyses, enter into public-  
17 private agreements, and provide leadership for the facilitation  
18 of financing, improvement, or enhancement of appropriate  
19 facilities, operations, and property.

20 § -2 **Definitions.** As used in this chapter, unless the  
21 context clearly requires otherwise:

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



1 "Board" means the board of directors of the public-private  
2 partnership authority.

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

6 "Management rights" means the authority to control and  
7 manage projects.

8 "Project" means a specific undertaking related to the  
9 operations and properties of any public agency, including and  
10 not limited to:

- 11 (1) Development of plans for a public agency; and
- 12 (2) Planning, improvement, construction, rehabilitation,  
13 alteration, maintenance, or repair of real property or  
14 energy generation facilities.

15 "Qualified person" means any individual, partnership,  
16 corporation, not-for-profit organization, or public agency  
17 possessing the competence, expertise, experience, and resources,  
18 including financial, personnel, and tangible qualifications, as  
19 deemed desirable by the authority.

20 § -3 **Public-private partnership authority; established.**

21 (a) There is established the public-private partnership  
22 authority, which shall be a public body corporate and politic



1 and an instrumentality and agency of the State. The authority  
2 shall be headed by a board of directors. The authority shall be  
3 placed within the department of business, economic development,  
4 and tourism for administrative purposes.

5 The authority shall:

- 6 (1) Identify projects that are suitable under this  
7 chapter;
- 8 (2) Conduct analyses, as appropriate;
- 9 (3) Enter into public-private partnership agreements, as  
10 appropriate; and
- 11 (4) Provide leadership for public-private partnership  
12 projects.

13 (b) The board of directors of the public-private  
14 partnership authority shall consist of five voting members and  
15 one non-voting member. The voting members shall include:

- 16 (1) The comptroller, or the first deputy to the  
17 comptroller, or a designated representative;
- 18 (2) The director of finance, or a designated  
19 representative;
- 20 (3) The director of business, economic development, and  
21 tourism, or a designated representative;





1 (4) One member to be appointed by the speaker of the house  
2 of representatives; and

3 (5) One member to be appointed by the president of the  
4 senate.

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

7 The members appointed by the speaker of the house of  
8 representatives and the president of the senate shall possess  
9 sufficient knowledge, experience, and proven expertise in small  
10 and large businesses within the development or recreation  
11 industries, banking, real estate, finance, promotion, marketing,  
12 or management.

13 The term of office of the members appointed by the speaker  
14 of the house of representatives and the president of the senate  
15 shall be four years.

16 Three members shall constitute a quorum, and a minimum of  
17 three votes shall be necessary for all actions by the board.

18 (c) The board shall appoint an executive director, who  
19 shall serve at the pleasure of the board and shall be exempt  
20 from chapter 76. The salary of the executive director shall be  
21 established by the board.



1 (d) The board, through its executive director, may appoint  
2 officers, agents, and employees; prescribe their duties and  
3 qualifications; and establish their salaries, without regard to  
4 chapter 76.

5 § -4 Powers; generally. Except as otherwise limited by  
6 this chapter, the authority may:

- 7 (1) Sue and be sued;
- 8 (2) Have a seal and alter the same at its pleasure;
- 9 (3) Make and alter bylaws for its organization and  
10 internal management;
- 11 (4) Adopt rules under chapter 91 necessary to implement  
12 this chapter in connection with its projects;
- 13 (5) Make and execute contracts, leases, and all other  
14 instruments necessary or convenient for the exercise  
15 of its powers and functions under this chapter;
- 16 (6) Manage projects by itself or in partnership with  
17 qualified persons or other governmental agencies;
- 18 (7) Receive, examine, and determine the acceptability of  
19 applications of qualified persons for public-private  
20 partnerships;
- 21 (8) Coordinate its activities with any federal or state  
22 programs;



- 1 (9) Provide advisory, consultative, training, and  
2 educational services and technical assistance to any  
3 person, partnership, or corporation, either public or  
4 private, to carry out the purposes of this chapter,  
5 and engage the services of consultants on a  
6 contractual basis for rendering professional and  
7 technical assistance and advice;
- 8 (10) Procure insurance against any loss in connection with  
9 its property and other assets and operations in  
10 amounts and from insurers as it deems desirable;
- 11 (11) Accept gifts or grants in any form from any public  
12 agency or any other source;
- 13 (12) Coordinate with any public agency;
- 14 (13) Recommend to the appropriate public agency the  
15 acquisition of any privately owned real or personal  
16 property that may be appropriate for the purposes of  
17 this chapter; and
- 18 (14) Do all things necessary or proper to carry out the  
19 purposes of this chapter.
- 20 § -5 **Projects and plans.** (a) The authority may develop  
21 plans and implement projects on behalf of public agencies, as  
22 appropriate.



1 (b) The authority may enter into a cooperative agreement  
2 with any public agency to implement projects on behalf of the  
3 public agency.

4 (c) The authority may enter into cooperative agreements  
5 with persons or public agencies when the powers, services, and  
6 capabilities of the persons or agencies are deemed necessary and  
7 appropriate.

8 (d) Prior to implementing any project, the authority shall  
9 submit the proposed plan for the project, together with any  
10 amendments, to and obtain the prior approval of the board and  
11 the executive of any affected public agency.

12 § -6 **Approval of projects.** All projects to be developed  
13 by the authority shall be approved by the board and the  
14 executive of any affected public agency.

15 § -7 **Transfer of management rights.** (a)  
16 Notwithstanding chapter 171 or any provision of this chapter to  
17 the contrary, any public agency may transfer, subject to the  
18 approval of the board or executive of the public agency,  
19 management rights for projects under its jurisdiction to the  
20 authority for purposes of this chapter.

21 (b) If the authority finds that projects under the control  
22 and management of any public agency are suitable for its



1 purposes under this chapter, the authority may lease properties  
2 from or agree to manage the properties of the agency having  
3 jurisdiction, upon terms and conditions as agreed to by the  
4 parties.

5 (c) Notwithstanding subsection (b) to the contrary, no  
6 property shall be leased to the authority if the lease would  
7 impair any covenant between the State or any county, or any  
8 department or board thereof, and the holders of bonds issued by  
9 the State or the county, or any department or board thereof.

10 § -8 **Public-private partnership revenues.** Any revenues  
11 generated by or on behalf of the authority from public-private  
12 partnership projects and plans developed pursuant to this  
13 chapter shall be deposited into the general fund.

14 § -9 **Exemption from taxation.** The authority shall not  
15 be required to pay state taxes of any kind.

16 § -10 **Application of chapter.** The authority and all  
17 projects implemented under this chapter shall comply with all  
18 state laws, other than the exemption from state taxes in § -9.

19 § -11 **Reports and evaluation.** (a) The authority shall  
20 submit a complete and detailed annual report of its plans and  
21 activities as follows:



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

3 (2) To the legislature, no later than sixty days after the  
4 submission of the report as required in paragraph (1).

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

9 SECTION 6. After the adoption of rules pursuant to section  
10 -4(4), Hawaii Revised Statutes, established by section 5 of  
11 this Act, the public-private partnership authority shall  
12 initiate pilot projects pursuant to chapter , Hawaii  
13 Revised Statutes, established by section 5 of this Act, as  
14 follows:

15 (1) A film production facility on state lands on the most  
16 populous island of a county with a population between  
17 one hundred thousand and one hundred seventy-five  
18 thousand;

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

21 (3) One county-initiated project.



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

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

12 SECTION 8. The public-private partnership authority shall  
13 neither plan nor implement any projects other than the pilot  
14 projects identified in this part nor enter into any agreements  
15 or contracts related to the planning or implementation of any  
16 projects other than the pilot projects identified in this part.

17 SECTION 9. There is appropriated out of the general  
18 revenues of the State of Hawaii the sum of \$ or so  
19 much thereof as may be necessary for fiscal year 2013-2014 and  
20 the same sum or so much thereof as may be necessary for fiscal  
21 year 2014-2015 for:



1 (1) The establishment and operation of the public-private  
2 partnership authority pursuant to section 5 of this  
3 Act; and

4 (2) The funding of staff positions.

5 The sums appropriated shall be expended by the department  
6 of business, economic development, and tourism for the purposes  
7 of this part.

8 **PART III**

9 SECTION 10. If any provision of this Act, or the  
10 application thereof to any person or circumstance, is held  
11 invalid, the invalidity does not affect other provisions or  
12 applications of the Act that can be given effect without the  
13 invalid provision or application, and to this end the provisions  
14 of this Act are severable.

15 SECTION 11. This Act does not affect rights and duties  
16 that matured, penalties that were incurred, and proceedings that  
17 were begun before its effective date.

18 SECTION 12. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 13. This Act shall take effect upon its approval;  
21 provided that:

22 (1) Section 1 shall take effect on July 1, 2050; and





1           (2) Part II of this Act shall take effect on July 1, 2050,  
2           and shall be repealed on July 1, 2018.



**Report Title:**

High Technology Innovation Corporation; HTIC Board of Directors;  
Public-private Partnership Authority; Pilot Project;  
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 the public-private partnership authority (PPPA); requires the PPPA to initiate pilot projects; appropriates an unspecified sum for the PPPA; and repeals on 07/01/2050. Section 1 effective 07/01/2050. (SD2)

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