
A BILL FOR AN ACT

RELATING TO ECONOMIC DEVELOPMENT.

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

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PART I

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

PUBLIC-PRIVATE PARTNERSHIP AUTHORITY

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

Governments around the world have been engaging in public-private partnerships to address these economic challenges. State agencies are hamstrung by their limited missions and dwindling resources. Creating a partnership agency to



1 collaborate with all state agencies and private sector entities
2 may help to deliver services and facilities more effectively.

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

16 § -2 **Definitions.** As used in this chapter, unless the
17 context clearly requires otherwise:

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

19 "Board" means the board of directors of the public-private
20 partnership authority.



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

4 "Fund" means the public-private partnership special fund.

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

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

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

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

19 § -3 **Public-private partnership authority; established.**

20 (a) There is established the public-private partnership
21 authority, which shall be a public body corporate and politic
22 and an instrumentality and agency of the State. The authority



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

4 The authority shall:

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

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

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



1 (4) One member to be appointed by the governor from a list
2 provided by the speaker of the house of
3 representatives, in accordance with section 26-34; and

4 (5) One member to be appointed by the governor from a list
5 provided by the president of the senate, in accordance
6 with section 26-34.

7 The non-voting member shall be the aha moku advisory committee
8 member of the moku in which the project is sited.

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

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

18 Three members shall constitute a quorum and a minimum of
19 three affirmative votes shall be necessary for all actions of
20 the board.

21 (c) The board shall appoint an executive director, who
22 shall serve at the pleasure of the board and shall be exempt



1 from chapter 76. The salary of the executive director shall be
2 set by the board.

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

7 § -4 Powers; generally. Except as otherwise limited by
8 this chapter, the authority may:

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



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



1 § -5 **Projects and plans.** (a) The authority may develop
2 plans and implement projects on behalf of public agencies, as
3 appropriate.

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

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

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

15 § -6 **Approval of projects.** All public-private
16 partnership projects developed by the authority shall be
17 approved by the board.

18 § -7 **Transfer of management rights.** (a)
19 Notwithstanding chapter 171 or any provision of this chapter to
20 the contrary, any public agency may transfer, subject to the
21 approval of the board or executive of the public agency,



1 management rights for projects under its jurisdiction to the
2 authority for purposes of this chapter.

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

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

14 § -8 **Public-private partnership revenues.** Any revenues
15 generated from public-private partnership projects and plans
16 developed pursuant to this chapter and received by:

- 17 (1) The authority;
- 18 (2) The public agency on whose behalf the authority is
19 implementing the project; or
- 20 (3) The private partner;

21 shall be deposited into the general fund.



- 1 (1) A film production facility on state lands;
- 2 (2) A main-street project on state lands in Wahiawa, city
- 3 and county of Honolulu;
- 4 (3) One county-initiated project for each respective
- 5 county; and
- 6 (4) A small boat harbor facility on state lands.

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

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

18 SECTION 4. The public-private partnership authority shall
19 neither plan nor implement any projects other than the pilot
20 projects nor enter into any agreements or contracts related to
21 the planning or implementation of any projects other than the
22 pilot projects identified in this part.



1 PART III

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

- 7 (1) The establishment and operation of the public-private
8 partnership authority pursuant to part I of this Act;
9 and
10 (2) The funding of staff positions.

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

14 PART IV

15 SECTION 6. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity does not affect other provisions or
18 applications of the Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.



1 SECTION 7. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 8. This Act shall take effect on July 1, 2050, and
5 shall be repealed on July 1, 2018.



Report Title:

DBEDT; Public-Private Partnership Authority; Pilot Project;
Appropriation

Description:

Establishes the public-private partnership authority (PPPA).
Requires the PPPA to initiate specified pilot projects.
Appropriates an unspecified sum for the PPPA. Effective July 1,
2050. Repeals July 1, 2018. (SB215 HD1)

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