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# 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**

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SECTION 1. The Hawaii Revised Statutes is amended by

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adding a new chapter to be appropriately designated and to read

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as follows:

5

**"CHAPTER**

6

**PUBLIC-PRIVATE PARTNERSHIP AUTHORITY**

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§ -1 **Findings and purpose.** The legislature finds that

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these are difficult economic times for all levels of government,

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as public service demands for an increasing population put

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pressure on revenue resources. The State faces the challenge of

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balancing a budget while addressing escalating infrastructure

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and service needs. Due to insufficient funding and postponed

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maintenance, the daily demands continue to increase.

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Governments around the world have been engaging in public-

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private partnerships to address these economic challenges.

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State agencies are hamstrung by their limited missions and

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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 ex officio, non-voting member. The voting members shall  
15 include:

- 16 (1) The comptroller, or the first deputy to the  
17 comptroller;
- 18 (2) The director of finance;
- 19 (3) The director of business, economic development, and  
20 tourism;
- 21 (4) One member to be appointed by the speaker of the house  
22 of representatives; and



1           (5) One member to be appointed by the president of the  
2           senate.

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

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

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

14           (c) The board shall appoint an executive director, who  
15 shall serve at the pleasure of the board and shall be exempt  
16 from chapter 76. The salary of the executive director shall be  
17 set by the board.

18           (d) The board, through its executive director, may appoint  
19 officers, agents, and employees; prescribe their duties and  
20 qualifications; and fix their salaries, without regard to  
21 chapter 76.



- 1           §   -4 Powers; generally. Except as otherwise limited by  
2 this chapter, the authority may:
- 3           (1) Sue and be sued;
  - 4           (2) Have a seal and alter the same at its pleasure;
  - 5           (3) Make and alter bylaws for its organization and  
6           internal management;
  - 7           (4) Adopt rules under chapter 91 necessary to implement  
8           this chapter in connection with its projects;
  - 9           (5) Make and execute contracts and all other instruments  
10           necessary or convenient for the exercise of its powers  
11           and functions under this chapter;
  - 12           (6) Manage projects by itself or in partnership with  
13           qualified persons or other governmental agencies;
  - 14           (7) Receive, examine, and determine the acceptability of  
15           applications of qualified persons for public-private  
16           partnerships;
  - 17           (8) Coordinate its activities with any federal or state  
18           programs;
  - 19           (9) Provide advisory, consultative, training, and  
20           educational services and technical assistance to any  
21           person, partnership, or corporation, either public or  
22           private, to carry out the purposes of this chapter,



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

16 § -5 **Projects and plans.** (a) The authority may develop  
17 plans and implement projects on behalf of public agencies, as  
18 appropriate.

19 (b) The authority may enter into a cooperative agreement  
20 with any public agency to implement projects on behalf of the  
21 public agency.



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

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

9 § -6 **Approval of projects.** All public-private  
10 partnership projects developed by the authority shall be  
11 approved by the board.

12 § -7 **Transfer of management rights.** (a)  
13 Notwithstanding chapter 171 or any provision of this chapter to  
14 the contrary, any public agency may transfer, subject to the  
15 approval of the board or executive of the public agency,  
16 management rights for projects under its jurisdiction to the  
17 authority for purposes of this chapter.

18 (b) If the authority finds that projects under the control  
19 and management of any public agency are suitable for its  
20 purposes under this chapter, the authority may lease properties  
21 from or agree to manage the properties of the agency having





1 jurisdiction, upon terms and conditions as agreed to by the  
2 parties.

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

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

12 § -9 **Exemption from taxation.** The authority shall not  
13 be required to pay state taxes of any kind.

14 § -10 **Application of chapter.** The authority and all  
15 projects implemented under this chapter shall comply with all  
16 state laws.

17 § -11 **Reports and evaluation.** (a) The authority shall  
18 submit a complete and detailed annual report of its plans and  
19 activities as follows:

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



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

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

8 **PART II**

9 SECTION 2. After the adoption of rules pursuant to section  
10 -4(a)(4), Hawaii Revised Statutes, the public-private  
11 partnership authority shall initiate pilot projects pursuant to  
12 chapter , Hawaii Revised Statutes, as follows:

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

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

19 (3) One county initiated project.

20 SECTION 3. The public-private partnership authority shall  
21 include in its annual report to the governor and the legislature



1 required by section -12, Hawaii Revised Statutes, a detailed  
2 report on the status of each pilot project.

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

10 SECTION 4. The public-private partnership authority shall  
11 neither plan nor implement any projects other than the pilot  
12 projects nor enter into any agreements or contracts related to  
13 the planning or implementation of any projects other than the  
14 pilot projects identified in this part.

15 **PART III**

16 SECTION 5. There is appropriated out of the general  
17 revenues of the State of Hawaii the sum of \$ or so  
18 much thereof as may be necessary for fiscal year 2013-2014 and  
19 the same sum or so much thereof as may be necessary for fiscal  
20 year 2014-2015 for:



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

8   **PART IV**

9           SECTION 6. 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 7. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

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

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**Report Title:**

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

**Description:**

Establishes the public-private partnership authority (PPPA).  
Requires the PPPA to initiate pilot projects. Appropriates an  
unspecified sum for the PPPA. Effective 07/01/2050. Repeals  
07/01/2018. (SD3)

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not legislation or evidence of legislative intent.*

