
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 the leadership
14 for the development, 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, excluding state
9 parks but including and not limited to:

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

15 "Qualified person" means any individual, partnership,
16 corporation, or public agency possessing the competence,
17 expertise, experience, and resources, including financial,
18 personnel, and tangible qualifications, as deemed desirable by
19 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 agreements, as appropriate;
10 and
- 11 (4) Provide the leadership for public-private partnership
12 projects.

13 (b) The board of directors of the public-private
14 partnership authority shall consist of six voting members. The
15 voting members shall 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;



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

3 (6) One member to be appointed by the governor, who shall
4 be an expert on Hawaiian culture;

5 provided that the members appointed by the speaker of the house
6 of 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. (a) Except as otherwise
2 limited by 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) Grant options to purchase any project or to renew any
20 lease entered into by the authority in connection with
21 any of its projects, on the terms and conditions it
22 deems advisable;



- 1 (10) 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 (11) 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 (12) Accept gifts or grants in any form from any public
12 agency or any other source;
- 13 (13) Coordinate with any public agency; provided that the
14 authority shall not rely on the Hawaii community
15 development authority for land use, zoning, and
16 permitting exemptions;
- 17 (14) Recommend to the appropriate public agency the
18 acquisition of any privately owned real or personal
19 property that may be appropriate for the purposes of
20 this chapter; and
- 21 (15) Do all things necessary or proper to carry out the
22 purposes of this chapter.



1 (b) The powers conferred herein shall be liberally
2 construed to implement the 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 consent from any public
16 agency affected by the proposed project.

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

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 special fund.** (a)
16 There is established the public-private partnership special fund
17 to be administered by the authority.

18 (b) The following shall be deposited into the public-
19 private partnership special fund:

- 20 (1) Legislative appropriations to the special fund;
- 21 (2) Any revenues generated from public-private partnership
22 projects, plans, and programs developed pursuant to



1 this chapter, except as provided in sections -9 and
2 -13;

3 (3) All interest earned or accrued on moneys deposited
4 into the special fund; and

5 (4) Any other moneys made available to the fund.

6 (c) Moneys in the special fund shall be expended by the
7 authority for the purposes of this chapter.

8 § -9 Stadium facilities special fund. (a) There is
9 established a stadium facilities special fund into which shall
10 be deposited all proceeds from leases, permits, interest income
11 generated from Aloha Stadium lands and facilities, and other
12 revenue generated from the non-permanent disposition of Aloha
13 Stadium lands and facilities under this chapter, less the
14 following:

15 (1) The principal and interest on bonds issued pursuant to
16 this chapter for projects on Aloha Stadium lands or
17 utilizing Aloha Stadium facilities;

18 (2) The cost of administering, operating, and maintaining
19 projects on Aloha Stadium lands or utilizing Aloha
20 Stadium facilities, not to exceed fifteen per cent of
21 the sums collected, net of principal and interest
22 payments on bonds; and



1 (3) Other sums that may be necessary for the issuance of
2 bonds under this chapter.

3 (b) The stadium facilities special fund shall be
4 administered by the stadium authority. Except as otherwise
5 provided, all moneys in the stadium facilities special fund
6 shall be used exclusively for stadium purposes.

7 § -10 **Exemption from taxation.** The authority shall not
8 be required to pay state taxes of any kind.

9 § -11 **Application of chapter.** All projects implemented
10 pursuant to this chapter shall comply with the following:

- 11 (1) Chapter 6E, relating to historic preservation;
- 12 (2) Section 10-13.5, relating to ceded land revenues;
- 13 (3) Chapter 92, relating to the sunshine law;
- 14 (4) Chapter 104, relating to wage and hours;
- 15 (5) Section 171-64.7, relating to legislative approval for
16 the sale or gifting of certain lands;
- 17 (6) Chapter 343, relating to the environmental review
18 process;
- 19 (7) Chapter 444, relating to contractors; and
- 20 (8) Customary and traditional gathering rights and
21 practices to the extent feasible pursuant to the state
22 constitution and relevant statutes.



1 § **-12 Reports and evaluation.** (a) The authority shall
2 submit a complete and detailed annual report of its plans and
3 activities as follows:

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

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

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

12 § **-13 School facilities special fund.** (a) There is
13 established a school facilities special fund into which shall be
14 deposited all proceeds from leases, permits, interest income
15 generated from public school lands and facilities, and other
16 revenue generated from the non-permanent disposition of public
17 school lands and facilities under this chapter, less the
18 following:

19 (1) The principal and interest on bonds issued pursuant to
20 this chapter for projects on public school lands or
21 utilizing public school facilities;



1 (2) The cost of administering, operating, and maintaining
2 projects on public school lands or utilizing public
3 school facilities, not to exceed fifteen per cent of
4 the sums collected, net of principal and interest
5 payments on bonds; and

6 (3) Other sums that may be necessary for the issuance of
7 bonds under this chapter.

8 (b) The school facilities special fund shall be
9 administered by the department of education in consultation with
10 the board of education. Except as otherwise provided, all
11 moneys in the school facilities special fund shall be used
12 exclusively for the new construction and upgrade of twenty-first
13 century school facilities, and the retrofit and upgrade of
14 existing school facilities to meet twenty-first century school
15 standards."

16 **PART II**

17 SECTION 2. After the adoption of rules pursuant to section
18 -4(a)(4), Hawaii Revised Statutes, the public-private
19 partnership authority shall initiate a pilot project pursuant to
20 chapter , Hawaii Revised Statutes, for the development of a
21 film production facility on state lands in Kapolei and a main-
22 street project on state lands in Wahiawa, city and county of



1 Honolulu. The government entities involved in the
2 implementation of this pilot project shall include the
3 department of accounting and general services, the department of
4 education, and the judiciary.

5 SECTION 3. The public-private partnership authority shall
6 include in its annual report required pursuant to section
7 -12, Hawaii Revised Statutes, to the governor and the
8 legislature a detailed report on the status of the pilot
9 project.

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

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



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PART III

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

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

(2) The funding for staff positions.

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

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

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



1 SECTION 8. This Act shall take effect on July 1, 2013;
2 provided that part II shall be repealed on January 1, 2016.



Report Title:

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

Description:

Establishes the public-private partnership authority. Requires the PPPA to initiate a pilot project. Appropriates an unspecified sum for the PPPA. Effective 07/01/2013. (SD1 Proposed)

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