
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

7

§ -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 and management of programs for a
11 public agency; and

12 (2) Planning, improvement, construction, rehabilitation,
13 alteration, maintenance, or repair of real property or
14 energy generation.

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 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 five voting members and
15 one ex officio, non-voting member. The voting members shall
16 include:

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



- 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 each.

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

20 (d) The board, through its executive director, may appoint
21 officers, agents, and employees; prescribe their duties and



1 qualifications; and fix their salaries, without regard to
2 chapter 76.

3 § -4 Powers; generally. (a) Except as otherwise
4 limited by this chapter, the authority may:

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



1 person, partnership, or corporation, either public or
2 private, to carry out the purposes of this chapter,
3 and engage the services of consultants on a
4 contractual basis for rendering professional and
5 technical assistance and advice;

6 (10) Procure insurance against any loss in connection with
7 its property and other assets and operations in
8 amounts and from insurers as it deems desirable;

9 (11) Accept gifts or grants in any form from any public
10 agency or any other source;

11 (12) Coordinate with any public agency; provided that the
12 authority shall not rely on the Hawaii community
13 development authority for land use, zoning, and
14 permitting exemptions;

15 (13) Recommend to the appropriate public agency the
16 acquisition of any privately owned real or personal
17 property that may be appropriate for the purposes of
18 this chapter; and

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

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

15 (e) The counties may, by ordinance or memorandum of
16 agreement, waive zoning, land use, and permitting requirements
17 on any project; provided that the action shall occur prior to
18 project construction.

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



1 § -7 **Transfer of management rights.** (a)

2 Notwithstanding chapter 171 or any provision of this chapter to
3 the contrary, any public agency may transfer, subject to the
4 approval of the board or executive of the public agency,
5 management rights for projects under its jurisdiction to the
6 authority for purposes of this chapter.

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

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

18 § -8 **Public-private partnership special fund.** (a)

19 There is established the public-private partnership special fund
20 to be administered by the authority.

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



- 1 (1) Legislative appropriations to the special fund;
- 2 (2) Any revenues generated from public-private partnership
- 3 projects, plans, and programs developed pursuant to
- 4 this chapter, except as provided in section -9;
- 5 (3) All interest earned or accrued on moneys deposited
- 6 into the special fund; and
- 7 (4) Any other moneys made available to the fund.
- 8 (c) Moneys in the special fund shall be expended by the
- 9 authority for the purposes of this chapter.

10 § -9 **Stadium facilities special fund.** (a) There is

11 established a stadium facilities special fund into which shall

12 be deposited all proceeds from leases, permits, interest income

13 generated from Aloha Stadium lands and facilities, and other

14 revenue generated from the non-permanent disposition of Aloha

15 stadium lands and facilities under this chapter, less the

16 following:

- 17 (1) The principal and interest on bonds issued pursuant to
- 18 this chapter for projects on Aloha Stadium lands or
- 19 utilizing Aloha Stadium facilities;
- 20 (2) The cost of administering, operating, and maintaining
- 21 projects on Aloha Stadium lands or utilizing Aloha
- 22 Stadium facilities, not to exceed fifteen per cent of



1 the sums collected, net of principal and interest
2 payments on bonds; and

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

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

9 § -10 **Exemption from taxation.** The authority shall not
10 be required to pay state taxes of any kind.

11 § -11 **Application of chapter.** The authority and all
12 projects implemented under this chapter shall comply with all
13 state laws.

14 § -12 **Reports and evaluation.** (a) The authority shall
15 submit a complete and detailed annual report of its plans and
16 activities as follows:

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

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

21 (b) The board shall submit to the governor and the
22 legislature, no later than twenty days prior to the convening of



1 each regular session, an evaluation of the executive director
2 appointed pursuant to section -3."

3 **PART II**

4 SECTION 2. After the adoption of rules pursuant to section
5 -4(a)(4), Hawaii Revised Statutes, the public-private
6 partnership authority shall initiate pilot projects pursuant to
7 chapter , Hawaii Revised Statutes, as follows:

- 8 (1) A film production facility on state lands on the most
9 populous island of a county with a population between
10 one hundred thousand and one hundred fifty thousand;
11 (2) A main-street project on state lands in Wahiawa, city
12 and county of Honolulu; and
13 (3) Up to one county initiated project in each county for
14 educational purposes or to stimulate economic
15 development and job creation.

16 SECTION 3. The public-private partnership authority shall
17 include in its annual report to the governor and the legislature
18 required by section -12 a detailed report on the status of
19 each pilot project.

20 The public-private partnership authority shall notify the
21 governor and the legislature upon the completion of each pilot
22 project and, within ninety days of each pilot project's



1 completion, submit a report to the governor and the legislature
2 containing a review and evaluation of each pilot project and any
3 recommendations to improve the effectiveness of chapter ,
4 Hawaii Revised Statutes.

5 SECTION 4. Until the completion of all of the pilot
6 projects identified in this part, the public-private partnership
7 authority shall neither plan nor implement any projects other
8 than the pilot projects nor enter into any agreements or
9 contracts related to the planning or implementation of any
10 projects other than the pilot projects.

11 PART III

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

- 17 (1) The establishment and operation of the public-private
18 partnership authority pursuant to part I of this Act;
19 and
- 20 (2) The funding of staff positions.



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

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

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

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

15



Report Title:

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

Description:

Establishes the public-private partnership authority.
Establishes a stadium facilities special fund. Requires the
PPPA to initiate pilot projects. Appropriates an unspecified
sum for the PPPA. Effective 07/01/2013. (SD1)

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