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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**

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

13 § -6 **Approval of projects.** All public-private  
14 partnership projects developed by the authority shall be  
15 approved by the board.

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





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

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

12 § -8 **Public-private partnership revenues.** Any revenues  
13 generated from public-private partnership projects and plans  
14 developed pursuant to this chapter shall be deposited into the  
15 general fund.

16 § -9 **Exemption from taxation.** The authority shall not  
17 be required to pay state taxes of any kind.

18 § -10 **Application of chapter.** The authority and all  
19 projects implemented under this chapter shall comply with all  
20 state laws.





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

3 (3) One county initiated project.

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

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

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

21 **PART III**



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

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

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

13 **PART IV**

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

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



1 SECTION 8. This Act shall take effect on July 1, 2050, and  
2 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. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

