

JAN 29 2015

A BILL FOR AN ACT

RELATING TO ECONOMIC DEVELOPMENT.

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

PART I

SECTION 1. Chapter 211F, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . PUBLIC-PRIVATE PARTNERSHIP INITIATIVE

§211F-A Purpose. The purpose of this part is to create a vehicle and a process to use the skills and assets of the public and private sectors to deliver services and facilities for the economic, environmental, and social benefit of the people of Hawaii. This part establishes the public-private partnership initiative and the public-private partnership advisory board to administer appropriate and culturally sensitive projects. The advisory board shall coordinate and administer projects, while ensuring that resources are maintained for the people of Hawaii. The advisory board shall identify projects that are suitable under this part, carry out appropriate analyses, enter into public-private agreements, and provide leadership for the



1 facilitation of financing, improvement, or enhancement of
2 appropriate facilities, operations, and property.

3 **§211F-B Definitions.** As used in this part, unless the
4 context clearly requires otherwise:

5 "Advisory board" means the public-private partnership
6 advisory board.

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

10 "Initiative" means the public-private partnership
11 initiative.

12 "Management rights" means the authority to control and
13 manage projects.

14 "Project" means a specific undertaking related to the
15 operations and properties of any public agency, including but
16 not limited to:

- 17 (1) Development of plans for a public agency; and
18 (2) Planning, improvement, construction, rehabilitation,
19 alteration, maintenance, or repair of real property or
20 energy generation.



1 "Qualified person" means any individual, partnership,
2 corporation, not-for-profit organization, or public agency
3 possessing the competence, expertise, experience, and resources,
4 including financial, personnel, and tangible qualifications, as
5 deemed desirable by the advisory board.

6 **§211F-C Public-private partnership initiative;**
7 **established.** The corporation shall establish the public-private
8 partnership initiative. Under the initiative, the advisory
9 board shall:

- 10 (1) Identify projects that are suitable under this part
11 with the approval of the governor;
12 (2) Conduct analyses, as appropriate;
13 (3) Enter into public-private partnership agreements, as
14 appropriate; and
15 (4) Provide the leadership for public-private partnership
16 projects.

17 **§211F-D Public-private partnership advisory board;**
18 **members; powers.** (a) The advisory board shall consist of nine
19 voting members and one non-voting member. The voting members
20 shall include:



- 1 (1) The comptroller, the first deputy to the comptroller,
2 or comptroller's designated representative;
- 3 (2) The director of finance, or the director's designated
4 representative;
- 5 (3) The director of business, economic development, and
6 tourism, or the director's designated representative;
- 7 (4) One member to be appointed by the governor from a list
8 provided by the speaker of the house of
9 representatives, in accordance with section 26-34;
- 10 (5) One member to be appointed by the governor from a list
11 provided by the president of the senate, in accordance
12 with section 26-34; and
- 13 (6) Four members, one from the county of Kauai, one from
14 the city and county of Honolulu, one from the county
15 of Maui, and one from the county of Hawaii, each
16 selected by the governor from a list of three nominees
17 submitted by each county council.

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

20 The members appointed by the governor at the recommendation
21 of the speaker of the house of representatives and the president



1 of the senate shall possess sufficient knowledge, experience,
2 and proven expertise in small and large businesses within the
3 development or recreation industries, banking, real estate,
4 finance, promotion, marketing, or management.

5 (b) The term of office of the members appointed by the
6 speaker of the house of representatives and the president of the
7 senate shall be four years each.

8 (c) Five members shall constitute a quorum and a minimum
9 of three affirmative votes shall be necessary for all actions of
10 the board.

11 (d) The advisory board, through the chairperson of the
12 board of the corporation, may appoint officers, agents, and
13 employees; prescribe their duties and qualifications; and fix
14 their salaries, without regard to chapter 76.

15 (e) Except as otherwise limited by this chapter, the
16 advisory board may:

17 (1) Make and alter bylaws for its organization and
18 internal management;

19 (2) Adopt rules under chapter 91 necessary to implement
20 this part in connection with its projects;



- 1 (3) Make and execute contracts, leases, and all other
2 instruments necessary or convenient for the exercise
3 of its powers and functions under this part;
- 4 (4) Manage projects by itself or in partnership with
5 qualified persons or other governmental agencies;
- 6 (5) Receive, examine, and determine the acceptability of
7 applications of qualified persons for public-private
8 partnerships;
- 9 (6) Coordinate its activities with any federal or state
10 programs;
- 11 (7) Provide advisory, consultative, training, and
12 educational services and technical assistance to any
13 person, partnership, or corporation, either public or
14 private, to carry out the purposes of this part and
15 engage the services of consultants on a contractual
16 basis for rendering professional and technical
17 assistance and advice;
- 18 (8) Procure insurance against any loss in connection with
19 its property and other assets and operations in
20 amounts and from insurers as it deems desirable;



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

3 (10) Coordinate with any public agency;

4 (11) Recommend to the appropriate public agency the
5 acquisition of any privately owned real or personal
6 property that may be appropriate for the purposes of
7 this part; and

8 (12) Do all things necessary or proper to carry out the
9 purposes of this part.

10 **§211F-E Projects and plans.** (a) The advisory board may
11 develop plans and implement projects on behalf of public
12 agencies, as appropriate.

13 (b) The advisory board may enter into a cooperative
14 agreement with any public agency to implement projects on behalf
15 of the public agency.

16 (c) The advisory board may enter into cooperative
17 agreements with persons or public agencies when the powers,
18 services, and capabilities of the persons or agencies are deemed
19 necessary and appropriate.

20 (d) Prior to implementing any project, the advisory board
21 shall submit the proposed plan for the project, together with



1 any amendments, to and obtain the prior approval of the board or
2 executive of any public agency affected.

3 **§211F-F Approval of projects.** All public-private
4 partnership projects developed by the advisory board shall be
5 approved by the corporation.

6 **§211F-G Transfer of management rights.** (a)
7 Notwithstanding chapter 171 or any other provision to the
8 contrary, any public agency may transfer, subject to the
9 approval of the advisory board, management rights for projects
10 under its jurisdiction to the advisory board for purposes of
11 this part.

12 (b) If the advisory board finds that projects under the
13 control and management of any public agency are suitable for its
14 purposes under this part, the advisory board may lease
15 properties from or agree to manage the properties of the agency
16 having jurisdiction, upon terms and conditions as agreed to by
17 the parties and approved by the governor.

18 (c) Notwithstanding subsection (b) to the contrary, no
19 property shall be leased to the advisory board if the lease
20 would impair any covenant between the State or any county, or



1 any department or board thereof, and the holders of bonds issued
2 by the State or the county, or any department or board thereof.

3 **§211F-H Public-private partnership revenues.** Any revenues
4 generated from public-private partnership projects and plans
5 developed pursuant to this part and received by:

- 6 (1) The advisory board;
- 7 (2) The public agency on whose behalf the advisory board
8 is implementing the project; or
- 9 (3) The private partner;

10 shall be deposited into the general fund.

11 **§211F-I Exemption from taxation.** The initiative shall not
12 be required to pay state taxes of any kind.

13 **§211F-J Application of chapter.** The advisory board and
14 all projects implemented under this part shall comply with all
15 state laws.

16 **§211F-K Reports.** The advisory board shall submit a
17 complete and detailed annual report of its plans and activities
18 as follows:

- 19 (1) To the governor no later than twenty days prior to the
20 convening of each regular legislative 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 **PART II**

5 SECTION 2. After the adoption of rules pursuant to section
6 211F-D, Hawaii Revised Statutes, the public-private partnership
7 advisory board shall initiate pilot projects selected by the
8 governor.

9 SECTION 3. The public-private partnership advisory board
10 shall neither plan nor implement any projects other than the
11 pilot projects nor enter into any agreements or contracts
12 related to the planning or implementation of any projects other
13 than the pilot projects identified by the governor.

14 **PART III**

15 SECTION 4. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so
17 much thereof as may be necessary for fiscal year 2015-2016 and
18 the same sum or so much thereof as may be necessary for fiscal
19 year 2016-2017 for the establishment and operation of the
20 public-private partnership initiative pursuant to part I of this
21 Act and to fund 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 PART IV

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

11 SECTION 6. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 7. In codifying the new sections added by
15 section 1 of this Act, the revisor of statutes shall substitute
16 appropriate section numbers for the letters used in designating
17 the new sections in this Act.

18 SECTION 8. This Act shall take effect on July 1, 2015, and
19 shall be repealed on June 30, 2020.

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INTRODUCED BY:

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S.B. NO. 1375

Report Title:

Hawaii Strategic Development Corporation; Public-private Partnership Initiative; Pilot Project; Appropriation

Description:

Requires HSDC to establish the public-private partnership initiative. Requires the public-private partnership advisory board to initiate pilot projects selected by the governor. Appropriates an unspecified sum for the public-private partnership initiative. Repeals on 6/30/2020.

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