

1 project, the State will benefit from maximizing the
2 opportunities for development of land around rail stations,
3 thereby supporting the local economy, improving access to
4 transportation, and increasing rail ridership.

5 Because of the need for a focused effort on infrastructure
6 capacity building to support redevelopment efforts at each of
7 the transit stations, and avoiding the need to create another
8 government entity, this chapter establishes the state transit-
9 oriented development authority to plan and develop
10 infrastructure capacity, pursuant to this chapter, at each of
11 the transit stations that will support the planned growth and
12 density at each of the transit stations.

13 This chapter focuses on transit stations that are adjacent
14 to state owned lands. The authority shall plan and develop
15 infrastructure to service lands within a half mile radius from
16 one of the following Stations: University of Hawaii, West Oahu
17 transit station, Leeward Community College transit station,
18 Aloha Stadium transit station, Kalihi transit station, and
19 Iwilei transit station.

20 Furthermore, in order to facilitate the investment of
21 private capital in public infrastructure, this chapter will



1 encourage the authority to enter into public-private
2 partnerships established through a "lease back" arrangement
3 between the authority and private investors.

4 The legislature further finds that there exists within the
5 State vast, unmet state transit-oriented development needs.
6 These include but are not limited to a lack of suitable
7 affordable housing; insufficient commercial and industrial
8 facilities for rent; residential areas that do not have
9 facilities necessary for basic live-ability, such as parks and
10 open space; and areas which are planned for extensive land
11 allocation to one, rather than mixed uses.

12 The legislature additionally finds that the lack of
13 planning and coordination in such areas has given rise to these
14 state transit-oriented development needs and that existing laws,
15 and public and private mechanisms have either proven incapable
16 or inadequate to facilitate timely redevelopment.

17 The legislature also finds that a new and comprehensive
18 authority will join the strengths of private enterprise, public
19 development, and regulation into a new form capable of long-
20 range planning and implementation of improved development of
21 state-owned assets near transit stations. The purpose of this



1 chapter is to establish such a mechanism in the state transit-
2 oriented development authority, a public entity which shall
3 determine development programs and cooperate with private
4 enterprise and the various components of federal, state, and
5 county governments in bringing plans to fruition.

6 For such areas designated as state transit-oriented
7 development districts, the legislature finds that the planning
8 and implementation program of the state transit-oriented
9 development authority will result in communities that serve the
10 highest needs and aspirations of Hawaii's people.

11 The legislature further finds that the creation of the
12 state transit-oriented development authority, the establishment
13 of state transit-oriented development districts, and the
14 issuance of bonds pursuant to this chapter to finance public
15 facilities serve the public interest and are matters of
16 statewide concern.

17 § -2 **Definitions.** As used in this chapter, unless the
18 context otherwise requires:

19 "Authority" means the state transit-oriented development
20 authority established by this chapter.



1 "Commercial project" means a project involving commercial
2 or light industrial development, which includes a mixed use
3 development where commercial or light industrial facilities may
4 be built into, adjacent to, under, or above residential units.

5 "County" means any county of the State.

6 "Local governing body" means the county council.

7 "Mixed use project" means a project that is any combination
8 of commercial project, redevelopment project, and residential
9 project.

10 "Project" means a specific work or improvement, including
11 real and personal properties, or any interest therein, acquired,
12 owned, constructed, reconstructed, rehabilitated, or improved by
13 the authority.

14 "Project cost" means the total of all costs incurred by the
15 authority in carrying out all undertakings that it deems
16 reasonable and necessary for the development of a project
17 including but not limited to: studies; surveys; plans;
18 specifications; architectural, engineering, or any other
19 development related services; acquisition of land and any
20 improvement thereon; site preparation and development;
21 construction; reconstruction; rehabilitation; the necessary



1 expenses in administering the chapter; the cost of financing the
2 project; and relocation costs.

3 "Public agency" means any office, department, board,
4 commission, bureau, division, public corporation agency, or
5 instrumentality of the federal, state, or county government.

6 "Public facilities" includes streets, utility and service
7 corridors, and utility lines where applicable, sufficient to
8 adequately service developable improvements in the district,
9 sites for schools, parks, parking garage, sidewalks, pedestrian
10 ways, and other community facilities. "Public facilities" also
11 includes highways, as defined in section 271-4, storm drainage
12 systems, water systems, street lighting systems, off-street
13 parking facilities, and sanitary sewerage systems.

14 "Qualified person" includes any individual, partnership,
15 corporation, or public agency possessing the competence;
16 expertise; experience; and resources, including financial,
17 personnel, and tangible resources, required for the purposes of
18 the project and such other qualifications as may be deemed
19 desirable by the authority in administering the chapter.

20 "Real property" means lands, structures, and interests in
21 land, including lands under water and riparian rights, space



1 rights, air rights, and any and all other things and rights
2 usually included within the term. "Real property" includes any
3 interests in such property less than full title, such as
4 easements, incorporeal hereditaments and every estate, interest,
5 or right, legal or equitable, including terms for years and
6 liens thereon by way of judgments, mortgages, or otherwise.

7 "Redevelopment project" means an undertaking for the
8 acquisition, clearance, planning, reconstruction, and
9 rehabilitation or a combination of these and other methods, of
10 an area for a residential project, for a commercial project, and
11 for other facilities appurtenant thereto, pursuant to and in
12 accordance with this chapter. In the context of a redevelopment
13 project, "acquisition, clearance, planning, reconstruction, and
14 rehabilitation" includes renewal, redevelopment, conservation,
15 restoration, or improvement, or any combination thereof.

16 "Residential project" means a project designed and intended
17 for the purpose of providing housing and such facilities as may
18 be incidental or appurtenant thereto.

19 **§ -3 State transit-oriented development authority;**
20 **established.** (a) There is established the state transit-
21 oriented development authority. The authority shall be placed



1 within the department of business, economic development, and
2 tourism for administrative purposes only.

3 (b) The authority shall consist of:

4 (1) The director of finance or the director's designee;

5 (2) The director of transportation or the director's
6 designee;

7 (3) A private developer with experience in developing
8 projects in Hawaii appointed by the governor pursuant
9 to section 26-34;

10 (4) An at-large member appointed by the governor from a
11 list of three candidates nominated by the president of
12 the senate, who shall be a non-voting member; and

13 (5) An at-large member appointed by the governor from a
14 list of three candidate nominated by the speaker of
15 the house of representatives, who shall be a non-
16 voting member.

17 In the event of a vacancy, a member shall be appointed to
18 fill the vacancy in the same manner as the original appointment
19 within thirty days of the vacancy or within ten days of the
20 senate's rejection of a previous appointment, as applicable.



1 The terms of the director of finance, director of
2 transportation, county directors of planning, or their
3 respective designees shall run concurrently with each official's
4 term of office. The terms of the appointed voting members shall
5 be four years, commencing on July 1 and expiring on June 30.

6 Notwithstanding section 92-15, a majority of all eligible
7 voting members as specified in this subsection shall constitute
8 a quorum to do business, and the concurrence of a majority of
9 all eligible voting members as specified in this subsection
10 shall be necessary to make any action of the authority valid.

11 (c) The authority shall appoint the executive director,
12 who shall be the chief executive officer. The authority shall
13 set the salary of the executive director, who shall serve at the
14 pleasure of the authority and shall be exempt from chapter 76.

15 (d) The authority shall annually elect the chairperson and
16 vice chairperson from among its members

17 (e) The members of the authority shall serve without
18 compensation but they shall be reimbursed for expenses,
19 including travel expenses, incurred in the performance of their
20 duties



- 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 pleasure;
- 5 (3) Enter into and execute contracts and all other
6 instruments necessary or convenient for the exercise
7 of its powers and functions under this chapter;
- 8 (4) Adopt and amend bylaws for its organization and
9 internal management;
- 10 (5) Adopt rules pursuant to chapter 91 with respect to its
11 projects, operations, properties, and facilities;
- 12 (6) Through its executive director appoint officers,
13 agents, and employees, prescribe their duties and
14 qualifications, and fix their salaries, without regard
15 to chapter 76;
- 16 (7) Prepare or cause to be prepared a state transit-
17 oriented development plan for all designated state
18 transit-oriented development districts;
- 19 (8) Acquire, reacquire, or contract to acquire or
20 reacquire by grant or purchase real, personal, or
21 mixed property or any interest therein; to own, hold,



1 clear, improve, and rehabilitate, and to sell, assign,
2 exchange, transfer, convey, lease, or otherwise
3 dispose of or encumber the same;

4 (9) Acquire or reacquire by condemnation real, personal,
5 or mixed property or any interest therein for public
6 facilities, including but not limited to streets,
7 sidewalks, parks, schools, and other public
8 improvements;

9 (10) By itself, or in partnership with qualified persons,
10 acquire, reacquire, construct, reconstruct,
11 rehabilitate, improve, alter, or repair or provide for
12 the construction, reconstruction, improvement,
13 alteration, or repair of any project; own, hold, sell,
14 assign, transfer, convey, exchange, lease, or
15 otherwise dispose of or encumber any project, and in
16 the case of the sale of any project, accept a purchase
17 money mortgage in connection therewith; and repurchase
18 or otherwise acquire any project that the authority
19 has theretofore sold or otherwise conveyed,
20 transferred, or disposed of;



- 1 (11) Arrange or contract for the planning, opening,
2 grading, or closing of streets, roads, roadways,
3 alleys, or other places, or for the furnishing of
4 facilities or for the acquisition of property or
5 property rights or for the furnishing of property or
6 services in connection with a project;
- 7 (12) Grant options to purchase any project or to renew any
8 lease entered into by it in connection with any of its
9 projects, on terms and conditions as it deems
10 advisable;
- 11 (13) Prepare or cause to be prepared plans, specifications,
12 designs, and estimates of costs for the construction,
13 reconstruction, rehabilitation, improvement,
14 alteration, or repair of any project, and from time to
15 time to modify the plans, specifications, designs, or
16 estimates;
- 17 (14) Provide advisory, consultative, training, and
18 educational services, technical assistance, and advice
19 to any person, partnership, or corporation, either
20 public or private, to carry out the purposes of this
21 chapter, and engage the services of consultants on a



- 1 contractual basis for rendering professional and
2 technical assistance and advice;
- 3 (15) Procure insurance against any loss in connection with
4 its property and other assets and operations in
5 amounts and from insurers as it deems desirable;
- 6 (16) Contract for and accept gifts or grants in any form
7 from any public agency or from any other source; and
- 8 (17) Do any and all things necessary to carry out its
9 purposes and exercise the powers given and granted in
10 this chapter.

11 **§ -4.1 Assignment of powers and duties prohibited.**

12 Notwithstanding anything contained in this chapter to the
13 contrary, the authority shall not assign to any person or
14 agency, including the executive director of the authority, any
15 of its powers and duties related to the approval of any
16 variance, exemption, or modification of any provision of a state
17 transit-oriented development plan or state transit-oriented
18 development rules.

19 **§ -5 Designation of state transit-oriented development**
20 **districts; state transit-oriented development plans.** (a) The
21 legislature, by statute, may designate an area as a state



1 transit-oriented development district if it determines that
2 there is need for planning, renewal, or redevelopment of that
3 area. The designation shall describe the boundaries of the
4 district.

5 (b) After designation, the authority shall develop a state
6 transit-oriented development plan for the designated district.
7 The plan shall include but not be limited to state transit-
8 oriented development guidance policies, district-wide
9 improvement program and state transit-oriented development
10 rules.

11 (c) The authority may enter into cooperative agreements
12 with qualified persons or public agencies, where the powers,
13 services, and capabilities of such persons or agencies are
14 deemed necessary and appropriate for the development of the
15 state transit-oriented development plan, and include at a
16 minimum, the following:

17 (1) How to optimize the amount of workforce and affordable
18 housing in each district;

19 (2) How to optimize public facilities, including schools,
20 parks, libraries, and other public facilities in each
21 district;



1 (3) Identify the need for infrastructure capacity building
2 to support the planned density at the transit
3 stations, and various alternatives on how the
4 infrastructure could be financed; and

5 (4) Provide an economic model that would illustrate
6 development and redevelopment opportunities with
7 projected returns to public or private investors and
8 the overall economic benefit in new taxes from jobs,
9 businesses, real property taxes, and other sources of
10 tax revenues.

11 (d) Whenever possible, planning activities of the
12 authority shall be coordinated with federal, state, and county
13 plans. Consideration shall be given to state goals and
14 policies, adopted state plan or land use guidance policies,
15 county general plans, development plans, and ordinances.

16 (e) The authority shall hold public hearings pursuant to
17 chapter 91 on each proposed state transit-oriented development
18 plan and, after consideration of comments received and
19 appropriate revision, shall submit the state transit-oriented
20 development plan to the governor for the governor's approval.



1 After approval, the governor shall submit to the
2 legislature requests for appropriations, authorization to issue
3 bonds, or both, to implement the state transit-oriented
4 development plan in an orderly, affordable, and feasible manner.
5 The governor shall submit the requests to the legislature as
6 part of the executive budget or supplemental budget, as
7 appropriate. In addition to the information, data, and
8 materials required under chapter 37, the requests shall be
9 accompanied by:

- 10 (1) Plans, maps, narrative descriptions, and other
11 appropriate materials on the:
- 12 (A) Locations and design of projects or public
13 facilities proposed to be funded; and
- 14 (B) Phase of the state transit-oriented development
15 plans proposed to be implemented with the
16 requested funds; and
- 17 (2) Other information deemed by the governor to be of
18 significance to the legislature regarding the projects
19 or public facilities proposed to be funded, including
20 a discussion of the public benefits intended by, and



1 adverse effects which may result from, implementation
2 of the projects or public facilities.

3 (f) The authority may amend the state transit-oriented
4 development plan as may be necessary. Amendments shall be made
5 in accordance with chapter 91.

6 § -5.5 **Community and public notice requirements; posting**
7 **on the authority's website; required.** (a) The authority shall
8 adopt community and public notice procedures pursuant to chapter
9 91 that shall include at a minimum:

10 (1) A means to effectively engage the community in which
11 the authority is planning a development project to
12 ensure that community concerns are received and
13 considered by the authority;

14 (2) The posting of the authority's proposed plans for
15 development of state transit-oriented development
16 districts, public hearing notices, and minutes of its
17 proceedings on the authority's website;

18 (3) The posting of every application for a development
19 permit for any project within a state transit-oriented
20 development district on the authority's website when
21 the application is deemed complete;



- 1 (4) Notification by the applicant of any application for a
2 development permit for a project valued at \$250,000 or
3 more by first class United States mail, postage
4 prepaid to owners and lessees of record of real
5 property located within a three hundred foot radius of
6 the perimeter of the proposed project identified from
7 the most current list available from the real property
8 assessment division of the department of budget and
9 fiscal services of the county in which the proposed
10 project is located when the application is deemed
11 complete; provided that notice mailed pursuant to this
12 paragraph shall include but not be limited to notice
13 of:
- 14 (A) Project specifications;
 - 15 (B) Requests for variance, exemption, or modification
16 of a state transit-oriented development plan or
17 the authority's state transit-oriented
18 development rules; and
 - 19 (C) Procedures for intervention and a contested case
20 hearing; and



1 (5) Any other information that the public may find useful
2 so that it may meaningfully participate in the
3 authority's decision-making processes.

4 (b) The authority shall provide the president of the
5 senate and speaker of the house of representatives with the
6 following:

7 (1) Notice of any public hearing upon posting of the
8 hearing notice; and

9 (2) A report detailing the public's reaction at the public
10 hearing, within one week after the hearing.

11 **§ -5.6 Public hearing for decision-making; separate**
12 **hearings required; contested case hearing; judicial review. (a)**

13 When rendering a decision regarding:

14 (1) An amendment to any of the authority's state transit-
15 oriented development rules established pursuant to
16 chapter 91 and section -7; or

17 (2) The acceptance of a developer's proposal to develop
18 lands under the authority's control;

19 the authority shall render its decision at a public hearing
20 separate from the hearing at which the proposal was presented.



1 (b) The authority shall issue a public notice in
2 accordance with section -5.5 and post the notice on its
3 website; provided that the decision-making hearing shall not
4 occur earlier than five business days after the notice is
5 posted. Public notice issued pursuant to this subsection for
6 public hearings on the acceptance of a developer's proposal to
7 develop lands under the authority's control shall state that any
8 written motion to intervene as a formal party to the proceeding
9 shall be received within twenty days after the publication date
10 of the public notice.

11 (c) Prior to rendering a decision, the authority shall
12 provide the general public with the opportunity to testify at
13 its decision-making hearing; provided that members of the public
14 who are not intervenors in the proceeding shall not be
15 considered formal parties to the proceeding.

16 (d) The authority shall provide the president of the
17 senate and speaker of the house of representatives with the
18 following:

19 (1) Notice of any public hearing upon posting of the
20 hearing notice; and



1 (2) A report detailing the public's reaction at the public
2 hearing, within one week after the hearing.

3 (e) When considering any developer's proposal to develop
4 lands under the authority's control that includes any request
5 for a variance, exemption, or modification of a state transit-
6 oriented development plan or of the authority's state transit-
7 oriented development rules, the authority shall consider the
8 request for variance, exemption, or modification at a public
9 hearing, noticed in accordance with section -5.5, separate
10 from and subsequent to the hearing at which the developer's
11 proposal was presented; provided that the authority may consider
12 all requests applicable to a single proposal at the same public
13 hearing. The authority's decision on requests subject to this
14 subsection shall be rendered at the decision-making hearing on
15 the developer's proposal.

16 (f) No final decision of the authority on a developer's
17 proposal shall be issued until after all proceedings required by
18 this section are finally concluded.

19 (g) Proceedings regarding the acceptance of a developer's
20 proposal to develop lands under the authority's control shall be
21 considered a contested case hearing.



1 (h) Any party aggrieved by a final decision of the
2 authority regarding the acceptance of a developer's proposal to
3 develop lands under the authority's control may seek judicial
4 review of the decision within thirty days, pursuant to section
5 91-14.

6 (i) The authority shall not approve any developer's
7 proposal to develop lands under the authority's control unless
8 the authority finds that the proposed development project is
9 reasonable and is consistent with the development rules and
10 policies of the relevant development district. In making its
11 finding pursuant to this subsection, the authority shall
12 consider:

- 13 (1) The extent to which the proposed project:
- 14 (A) Advances the goals, policies, and objectives of
 - 15 the applicable district plan;
 - 16 (B) Protects, preserves, or enhances desirable
 - 17 neighborhood characteristics through compliance
 - 18 with the standards and guidelines of the
 - 19 applicable district rules;
 - 20 (C) Avoids a substantially adverse effect on
 - 21 surrounding land uses through compatibility with



1 the existing and planned land use character of
2 the surrounding area; and

3 (D) Provides housing opportunities for all income
4 groups, particularly low, moderate, and other
5 qualified income groups;

6 (2) The impact of the proposed project on the following
7 areas of urban design, as applicable:

8 (A) Pedestrian-oriented development, including
9 complete streets design;

10 (B) Transit-oriented development, including rail,
11 bus, and other modes of rapid transit; and

12 (C) Community amenities such as gathering places,
13 community centers, culture and arts facilities,
14 and the full array of public facilities normally
15 provided by the public sector;

16 (3) The impact of the proposed project on the following
17 areas of state concern:

18 (A) Preservation of important natural systems or
19 habitats;

20 (B) Maintenance of valued cultural, historical, or
21 natural resources;



- 1 (C) Maintenance of other resources relevant to the
- 2 State's economy;
- 3 (D) Commitment of state funds and resources;
- 4 (E) Employment opportunities and economic
- 5 development; and
- 6 (F) Maintenance and improvement of the quality of
- 7 educational programs and services provided by
- 8 schools; and

9 (4) The representations and commitments made by the
10 developer in the permit application process.

11 **§ -6 District-wide improvement program.** (a) The
12 authority shall develop a district-wide improvement program to
13 identify necessary district-wide public facilities within a
14 state transit-oriented development district.

15 (b) Whenever the authority shall determine to undertake,
16 or cause to be undertaken, any public facility as part of the
17 district-wide improvement program, the cost of providing the
18 public facilities shall be assessed against the real property in
19 the state transit-oriented development district specially
20 benefiting from such public facilities. The authority shall
21 determine the areas of the state transit-oriented development



1 district that will benefit from the public facilities to be
2 undertaken and, if less than the entire state transit-oriented
3 development district benefits, the authority may establish
4 assessment areas within the state transit-oriented development
5 district. The authority may issue and sell bonds in such
6 amounts as may be authorized by the legislature to provide funds
7 to finance such public facilities. The authority shall fix the
8 assessments against real property specially benefited. All
9 assessments made pursuant to this section shall be a statutory
10 lien against each lot or parcel of land assessed from the date
11 of the notice declaring the assessment until paid, and such lien
12 shall have priority over all other liens except the lien of
13 property taxes. As between liens of assessments, the earlier
14 lien shall be superior to the later lien.

15 (c) Bonds issued to provide funds to finance public
16 facilities shall be secured solely by the real properties
17 benefited or improved, the assessments thereon, or by the
18 revenues derived from the program for which the bonds are
19 issued, including reserve accounts and earnings thereon,
20 insurance proceeds, and other revenues, or any combination
21 thereof. The bonds may be additionally secured by the pledge or



1 assignment of loans and other agreements or any note or other
2 undertaking, obligation, or property held by the authority.
3 Bonds issued pursuant to this section and the income therefrom
4 shall be exempt from all state and county taxation, except
5 transfer and estate taxes. The bonds shall be issued
6 accordingly and subject to the provisions of the rules adopted
7 pursuant to this section.

8 (d) Any other law to the contrary notwithstanding, in
9 assessing real property for public facilities, the authority
10 shall assess the real property within an assessment area
11 according to the special benefits conferred upon the real
12 property by the public facilities. These methods may include
13 assessment on a frontage basis or according to the area of real
14 property within an assessment area or any other assessment
15 method which assesses the real property according to the special
16 benefit conferred, or any combination thereof. No such
17 assessment levied against real property specially benefited as
18 provided by this chapter shall constitute a tax on real property
19 within the meanings of any constitutional or statutory
20 provisions.



1 (e) The authority shall adopt rules pursuant to chapter
2 91, and may amend the rules from time to time, providing for the
3 method of undertaking and financing public facilities in an
4 assessment area or an entire state transit-oriented development
5 district. The rules adopted pursuant to this section shall
6 include but are not limited to the following:

- 7 (1) Methods by which the authority shall establish
8 assessment areas;
- 9 (2) The method of assessment of real properties specially
10 benefited;
- 11 (3) The costs to be borne by the authority, the county in
12 which the public facilities are situated, and the
13 property owners;
- 14 (4) The procedures before the authority relating to the
15 creation of the assessment areas by the owners of real
16 property therein, including provisions for petitions,
17 bids, contracts, bonds, and notices;
- 18 (5) Provisions relating to assessments; provisions
19 relating to financing, such as bonds, revolving funds,
20 advances from available funds, special funds for



1 payment of bonds, payment of principal and interest,
2 and sale and use of bonds;

3 (6) Provisions relating to funds and refunding of
4 outstanding debts; and

5 (7) Provisions relating to limitations on time to sue, and
6 other related provisions.

7 (f) Any provisions to the contrary notwithstanding, the
8 authority may, in its discretion, enter into any agreement with
9 the county in which the public facilities are located, to
10 implement all or part of the purposes of this section.

11 (g) All sums collected under this section shall be
12 deposited in the Hawaii state transit-oriented development
13 revolving fund established by section -15; except that
14 notwithstanding section -15, all moneys collected on account
15 of assessments and interest thereon for any specific public
16 facilities financed by the issuance of bonds shall be set apart
17 in a separate special fund and applied solely to the payment of
18 the principal and interest on these bonds, the cost of
19 administering, operating, and maintaining the program, the
20 establishment of reserves, and other purposes as may be
21 authorized in the proceedings providing for the issuance of the



1 bonds. If any surplus remains in any special fund after the
2 payment of the bonds chargeable against such fund, it shall be
3 credited to and become a part of the Hawaii state transit-
4 oriented development revolving fund. Moneys in the Hawaii state
5 transit-oriented development revolving fund may be used to make
6 up any deficiencies in the special fund.

7 (h) If the public facilities to be financed through bonds
8 issued by the authority may be dedicated to the county in which
9 the public facilities are to be located, the authority shall
10 ensure that the public facilities are designed and constructed
11 to meet county requirements.

12 (i) Notwithstanding any law to the contrary, whenever as
13 part of a district-wide improvement program it becomes necessary
14 to remove, relocate, replace, or reconstruct public utility
15 facilities, the authority shall establish by rule the allocation
16 of cost between the authority, the affected public utilities,
17 and properties that may specially benefit from such improvement,
18 if any. In determining the allocation of cost, the authority
19 shall consider the cost allocation policies for improvement
20 districts established by the county in which the removal,
21 relocation, replacement, or reconstruction is to take place.



1 § -7 **State transit-oriented development rules.** (a) The
2 authority shall establish state transit-oriented development
3 rules under chapter 91 on health, safety, building, planning,
4 zoning, and land use which, upon final adoption of a state
5 transit-oriented development plan, shall supersede all other
6 inconsistent ordinances and rules relating to the use, zoning,
7 planning, and development of land and construction thereon.
8 Rules adopted under this section shall follow existing law,
9 rules, ordinances, and regulations as closely as is consistent
10 with standards meeting minimum requirements of good design,
11 pleasant amenities, health, safety, and coordinated development.
12 The authority may, in the state transit-oriented development
13 plan or by a state transit-oriented development rule, provide
14 that lands within a state transit-oriented development district
15 shall not be developed beyond existing uses or that improvements
16 thereon shall not be demolished or substantially reconstructed,
17 or provide other restrictions on the use of the lands.

18 (b) Development rights under a master plan permit and
19 master plan development agreement issued and approved by the
20 authority are vested under the state transit-oriented
21 development district rules in effect at the time of initial



1 approval by the authority and shall govern development on lands
2 subject to such permit and agreement.

3 **§ -8 Use of public lands; acquisition of state lands.**

4 (a) If state lands under the control and management of other
5 public agencies are required by the authority for its purposes,
6 the agency having the control and management of those required
7 lands may, upon request by the authority and with the approval
8 of the governor, convey or lease such lands to the authority
9 upon such terms and conditions as may be agreed to by the
10 parties.

11 (b) Notwithstanding subsection (a), no public lands shall
12 be conveyed or leased to the authority if such conveyance or
13 lease would impair any covenant between the State or any county
14 or any department or board thereof and the holders of bonds
15 issued by the State or such county, department, or board.

16 (c) Notwithstanding any law to the contrary, the authority
17 may negotiate lease terms on any lands it controls, with terms
18 and conditions that are deemed to be in the best interest of the
19 State in achieving its goals to develop or redevelop state-owned
20 lands near transit stations; provided that the maximum term of



1 an initial lease or lease-back arrangement shall not exceed
2 ninety-nine years.

3 § -8.5 Developments within special management areas and

4 shoreline setback. (a) Notwithstanding chapter 205A, all
5 requests for developments within a special management area and
6 shoreline setback variances for developments on any lands within
7 a state transit-oriented development district, for which a state
8 transit-oriented development plan has been developed and
9 approved in accordance with section -5, shall be submitted to
10 and reviewed by the lead agency as defined in chapter 205A. In
11 state transit-oriented development districts for which a state
12 transit-oriented development plan has not been developed and
13 approved in accordance with section -5, parts II and III of
14 chapter 205A shall continue to be administered by the applicable
15 county authority until a state transit-oriented development plan
16 for the district takes effect.

17 (b) In the review requests under subsection (a), the lead
18 agency shall conform to the following, as deemed appropriate:

- 19 (1) Applicable county rules adopted in accordance with
20 section 205A-26 for the review of developments within

1 a special management area, except that section 205A-
2 26(2)(C) shall not apply; and

3 (2) Part III of chapter 205A and applicable county rules
4 for the review of developments within the shoreline
5 setback.

6 (c) With the approval of the lead agency, the developments
7 may be allowed without a special management area permit or
8 shoreline setback variance as required by chapter 205A.

9 § -9 **Condemnation of real property.** The authority upon
10 making a finding that it is necessary to acquire any real
11 property for its immediate or future use for the purposes of
12 this chapter, may acquire the property by condemnation pursuant
13 to chapter 101, including property already devoted to a public
14 use. Such property shall not thereafter be taken for any other
15 public use without the consent of the authority. No award of
16 compensation shall be increased by reason of any increase in the
17 value of real property caused by the designation of a state
18 transit-oriented development district or plan adopted pursuant
19 to a designation, or the actual or proposed acquisition, use, or
20 disposition of any other real property by the authority.



1 § -10 Relocation. (a) Any provision of law to the
2 contrary notwithstanding, the authority shall adopt rules
3 pursuant to chapter 91 to insure the appropriate relocation
4 within or outside the district of persons, families, and
5 businesses displaced by governmental action within the district.

6 The rules may include but are not limited to:

- 7 (1) The establishment and operation of a central
8 relocation office;
- 9 (2) Relocation payments for actual moving costs;
- 10 (3) Fixed payments for losses suffered;
- 11 (4) Payments for replacement housing or business
12 locations;
- 13 (5) Relocation payments and loans to displaced businesses
14 for certain costs related to the re-establishment of
15 their business operations; and
- 16 (6) Other similar relocation matters.

17 (b) The authority shall provide relocation assistance to
18 persons, families, and businesses within the district that are
19 displaced by private action; provided that such assistance shall
20 not include any form of direct monetary payments except that the
21 authority may make relocation loans to displaced businesses in



1 accordance with rules adopted by the authority for the purposes
2 of this section. Temporary relocation facilities within or
3 outside the district may be made available to displacees;
4 provided that those displaced by government action shall be
5 afforded priority to the facilities.

6 § -11 **Construction contracts.** The authority shall award
7 construction contracts in conformity with the applicable
8 provisions of chapter 103D.

9 § -12 **Dedication for public facilities as condition to**
10 **development.** The authority shall establish rules requiring
11 dedication for public facilities of land or facilities, or cash
12 payments in lieu thereof, by developers as a condition of
13 developing real property pursuant to the state transit-oriented
14 development plan. Where state and county public facilities
15 dedication laws, ordinances, or rules differ, the provision for
16 greater dedication shall prevail.

17 § -13 **Sale or lease of redevelopment projects.** (a) The
18 authority may, without recourse to public auction, sell or lease
19 for a term not exceeding ninety-nine years, all or any portion
20 of the real or personal property constituting a redevelopment
21 project to any person, upon such terms and conditions as may be



1 approved by the authority, if the authority finds that the sale
2 or lease is in conformity with the state transit-oriented
3 development plan.

4 (b) In the case of residential projects or redevelopment
5 projects, the terms of the sale shall provide for the repurchase
6 of the property by the authority at its option, in the event
7 that the purchaser, if other than a state agency, desires to
8 sell the property within ten years; provided that this
9 requirement may be waived by the authority if the authority
10 determines that a waiver will not be contrary to the state
11 transit-oriented development plan. The authority shall
12 establish at the time of original sale a formula setting forth a
13 basis for a repurchase price based on market considerations
14 including but not being limited to interest rates, land values,
15 construction costs, and federal tax laws.

16 If the purchaser in a residential project is a state
17 agency, the authority may include as a term of the sale a
18 provision for the repurchase of the property in conformance with
19 this section.

20 § -14 Residential projects; cooperative agreements. (a)

21 If the authority deems it desirable to develop a residential



1 project, it may enter into an agreement with qualified persons
2 to construct, maintain, operate, or otherwise dispose of the
3 residential project. Sale, lease, or rental of dwelling units
4 in the project shall be as provided by the rules established by
5 the authority. The authority may enter into cooperative
6 agreements with the Hawaii housing finance and development
7 corporation for the financing, development, construction, sale,
8 lease, or rental of dwelling units and projects.

9 (b) The authority may transfer the housing fees collected
10 from private residential developments for the provision of
11 housing for residents of low- or moderate-income to the Hawaii
12 housing finance and development corporation for the financing,
13 development, construction, sale, lease, or rental of such
14 housing within or without the state transit-oriented development
15 districts. The fees shall be used only for projects owned by
16 the State or owned or developed by a qualified nonprofit
17 organization. For the purposes of this section, "nonprofit
18 organization" means a corporation, association, or other duly
19 chartered organization registered with the State, which
20 organization has received charitable status under the Internal
21 Revenue Code of 1986, as amended.



1 § -15 **Hawaii state transit-oriented development**

2 **revolving fund.** There is created the Hawaii state transit-
3 oriented development revolving fund into which all receipts and
4 revenues of the authority shall be deposited. Proceeds from the
5 fund shall be used for the purposes of this chapter.

6 § -15.5 **Expenditures of revolving funds under the**

7 **authority exempt from appropriation and allotment.** Except as to
8 administrative expenditures, and except as otherwise provided by
9 law, expenditures from any revolving fund administered by the
10 authority may be made by the authority without appropriation or
11 allotment of the legislature; provided that no expenditure shall
12 be made from and no obligation shall be incurred against any
13 revolving fund in excess of the amount standing to the credit of
14 the fund or for any purpose for which the fund may not lawfully
15 be expended. Nothing in sections 37-31 to 37-41 shall require
16 the proceeds of any revolving fund administered by the authority
17 to be re-appropriated annually.

18 § -16 **Exemption from taxation.** The authority shall not
19 be required to pay assessments levied by any county, nor shall
20 the authority be required to pay state taxes of any kind.



1 § **-17 Annual report.** The authority shall submit to the
2 governor and the legislature, at least twenty days prior to the
3 convening of any regular session, a complete and detailed report
4 of its activities.

5 § **-18 Issuance of bonds.** The director of finance may,
6 from time to time, issue general obligation bonds pursuant to
7 chapter 39 in such amounts as may be authorized by the
8 legislature, for the purposes of this chapter.

9 § **-19 Violations and penalty.** (a) The authority may
10 set, charge, and collect reasonable fines for violation of this
11 chapter or any rule adopted pursuant to chapter 91. Any person
12 violating any of the provisions of this chapter or any rule
13 adopted pursuant to chapter 91, for which violation a penalty is
14 not otherwise provided, shall be fined not more than \$500 a day
15 and shall be liable for administrative costs incurred by the
16 authority.

17 (b) The authority may maintain an action for an injunction
18 to restrain any violation of the provisions of this chapter and
19 may take any other lawful action to prevent or remedy any
20 violation.



1 (c) Any person violating any provision of this chapter
2 shall, upon conviction, be punished by a fine not exceeding
3 \$1,000 or by imprisonment not exceeding thirty days, or both.
4 The continuance of a violation after conviction shall be deemed
5 a new offense for each day of such continuance.

6 **PART II. STATE TRANSIT-ORIENTED DEVELOPMENT DISTRICTS**

7 **§ -21 State transit-oriented development district;**
8 **established; boundaries.** The state transit-oriented development
9 district is established. The district boundaries are defined as
10 the one-half mile radius around each of the following transit
11 station sites:

- 12 (1) University of Hawaii, West Oahu transit station;
13 (2) Leeward community college transit station;
14 (3) Aloha stadium transit station;
15 (4) Kalihi transit station; and
16 (5) Iwilei transit station.

17 **§ -22 State transit-oriented development district;**
18 **development guidance policies.** The following shall be the
19 development guidance policies generally governing the
20 authority's action in the state transit-oriented development
21 district:



1 (1) Development shall result in a community which permits
2 an appropriate land mixture of residential,
3 commercial, industrial, and other uses. In view of
4 the innovative nature of the mixed use approach, urban
5 design policies shall be established to provide
6 guidelines for the public and private sectors in the
7 proper development of this district; while the
8 authority's development responsibilities apply only to
9 the area within the district, the authority may engage
10 in any studies or coordinative activities permitted in
11 this chapter that affect areas lying outside the
12 district, where the authority in its discretion
13 decides that those activities are necessary to
14 implement the intent of this chapter. The studies or
15 coordinative activities shall be limited to facility
16 systems, resident and industrial relocation, and other
17 activities with the counties and appropriate state
18 agencies. The authority may engage in construction
19 activities outside of the district; provided that such
20 construction relates to infrastructure development or
21 residential or business relocation activities;



1 provided further, notwithstanding section 206E-7, that
2 such construction shall comply with the general plan,
3 development plan, ordinances, and rules of the county
4 in which the district is located;

5 (2) Existing and future industrial uses shall be permitted
6 and encouraged in appropriate locations within the
7 district. No plan or implementation strategy shall
8 prevent continued activity or redevelopment of
9 industrial and commercial uses which meet reasonable
10 performance standards;

11 (3) Activities shall be located so as to provide primary
12 reliance on public transportation and pedestrian
13 facilities for internal circulation within the
14 district or designated subareas;

15 (4) Major view planes, view corridors, and other
16 environmental elements such as natural light and
17 prevailing winds, shall be preserved through necessary
18 regulation and design review;

19 (5) Redevelopment of the district shall be compatible with
20 plans of the surrounding areas;



1 (6) Historic sites and culturally significant facilities,
2 settings, or locations shall be preserved;

3 (7) Land use activities within the district, where
4 compatible, shall to the greatest possible extent be
5 mixed horizontally, that is, within blocks or other
6 land areas, and vertically, as integral units of
7 multi-purpose structures;

8 (8) Residential development may require a mixture of
9 densities, building types, and configurations in
10 accordance with appropriate urban design guidelines;
11 integration vertically and horizontally of residents
12 of varying incomes, ages, and family groups; and an
13 increased supply of housing for residents of low- or
14 moderate-income may be required as a condition of
15 redevelopment in residential use. Residential
16 development shall provide necessary community
17 facilities, such as open space, parks, community
18 meeting places, child care centers, and other
19 services, within and adjacent to residential
20 development; and



1 (9) Public facilities within the district shall be
2 planned, located, and developed so as to support the
3 redevelopment policies for the district established by
4 this chapter and plans and rules adopted pursuant to
5 it.

6 § -23 **Lease of projects.** (a) Notwithstanding any law
7 to the contrary, the authority may, without recourse to public
8 auction or public notice for sealed bids, lease for a term not
9 exceeding ninety-nine years all or any portion of the real or
10 personal property constituting a project to any person, upon
11 such terms and conditions as may be approved by the authority,
12 if the authority finds that the lease is in conformity with the
13 state transit-oriented development plan.

14 (b) In the case of any sale of the leasehold interest in
15 the project, the terms of the sale shall provide for the
16 repurchase of the leasehold property by the authority at its
17 option, in the event that the purchaser, if other than a state
18 agency, desires to sell the property within ten years; provided
19 that this requirement may be waived by the authority if the
20 authority determines that a waiver will not be contrary to the
21 state transit-oriented development plan. The authority shall



1 establish at the time of original sale a formula setting forth a
2 basis for a repurchase price based on market considerations
3 including but not limited to interest rates, land values,
4 construction costs, and federal tax laws.

5 If the purchaser in a residential project is a state
6 agency, the authority may include as a term of the sale a
7 provision for the repurchase of the property in conformance with
8 this section.

9 § -24 **Prohibitions.** Notwithstanding any other provision
10 of this chapter, the authority is prohibited from selling or
11 otherwise assigning the fee simple interest in any lands in the
12 state transit-oriented development district to which the
13 authority in its corporate capacity holds title, except with
14 respect to:

- 15 (1) Utility easements;
16 (2) Remnants as defined in section 171-52;
17 (3) Grants to any state or county department or agency;
18 and
19 (4) Private entities for purposes of any easement,
20 roadway, or infrastructure improvements."



S.B. NO. 599

1 SECTION 2. This Act does not affect rights and duties that
 2 matured, penalties that were incurred, and proceedings that were
 3 begun before its effective date.

4 SECTION 3. This Act shall take effect upon its approval.
 5

INTRODUCED BY: Will Zygo

Michelle A. Fedani
Karl Rhoads

Breene Hunt
 BTG

Will
 Clarence K. Vishikhan

Donna Mercado
 Donna Mercado KA

Lyndy

Lorraine F. Frouge



S.B. NO. 599

Report Title:

State Transit-oriented Development Authority; Transit-oriented Development District; Development Projects

Description:

Establishes the state transit-oriented development authority to plan and coordinate development projects within the state-transit-oriented development district. Establishes the district within one-half mile of the sites of specified Honolulu rail transit stations.

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

