

CHAPTER 107
PUBLIC IMPROVEMENTS

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"PART I. GENERAL PROVISIONS

Note

Sections 107-1 to 107-11 designated as Part I by L 2007, c 82, §3.

§107-1 Management of internal improvements. The comptroller is charged with the superintendence and management of the internal improvements of the State. [CC 1859, §167; RL 1925, §798; RL 1935, §1700; RL 1945, §4901; am L 1947, c 180, §1; RL 1955, §110-1; am L Sp 1959 2d, c 1, §12; HRS §107-1]

Cross References

General authority of comptroller, see §26-6.

Case Notes

Section gives no right to grant franchise for street railway in Honolulu. 6 H. 414.

Within duties to accept promise to pay for use of sewer. 19 H. 41.

County ordinances may not restrict duties under section. 23 H. 675.

No specific duties or improvements are imposed on contractors. 30 H. 132.

Cited: 7 H. 470.

" **§107-1.5 Public works project assessment fund.** (a) There shall be established in the department of accounting and general services a revolving fund to be known as the public works project assessment fund for the purposes of defraying costs involved in carrying out construction projects managed by the department; managing funds representing accumulated vacation and sick leave credits and retirement benefits for non-general funded employees in the construction program in accordance with section 78-23; equitably collecting and distributing the costs of other current expenses associated with capital improvement, repairs and maintenance, and repairs and alterations projects; and managing the payments of employee transportation requirements such as car mileage reimbursements in accordance with applicable law and collective bargaining agreements.

(b) The comptroller shall make reasonable assessments on construction projects managed by the department of accounting and general services to carry out the program of centralized engineering services. The assessments shall be based on a

logarithmic curve developed by the department for such services. All assessments collected shall be deposited into the public works project assessment fund.

(c) All expenditures from the public works project assessment fund shall be made by the comptroller in accordance with applicable law and rules. [L 1996, c 113, §1; am L 2002, c 148, §11]

" **§107-2 Surveys, maps, etc., lands, harbors, etc.** The comptroller shall cause such surveys, maps, and plans of the government lands set aside for public purposes and of the harbors, and internal improvements to be made as the public interest may require, which surveys, maps, and plans shall be kept in the comptroller's office for public inspection and reference. [CC 1859, §45; Cp L §45; am imp Org Act, §73(q); RL 1925, §799; RL 1935, §1701; RL 1945, §4902; RL 1955, §110-2; am L Sp 1959 2d, c 1, §12; HRS §107-2; gen ch 1985]

Cross References

Public works affecting historical sites, see §6E-8.

" **§107-3 Powers and duties of the department of accounting and general services.** The powers and duties of the department of accounting and general services shall include:

- (1) The powers and duties heretofore attached to the surveyor general, except such as relate to the geodetic survey of the Hawaiian Islands;
- (2) The surveying, locating land boundaries, triangulation, mapping, subdividing, studying land titles and boundaries, preparing metes and bounds descriptions, marking land boundaries, and other work related thereto of all lands owned, controlled or in the possession of the State, when such action is required in order to use, sell, lease, exchange, or improve such lands, and, when requested, the performing of similar services with regard to private lands to be acquired by the State for public purposes;
- (3) Collaborating with the state departments and agencies in acquiring lands required by the State for public purposes, the cost in connection therewith to be borne by the department or agency acquiring the land. [L 1951, c 283, §1; RL 1955, §103-1; am L Sp 1959 2d, c 1, §12; HRS §107-3]

" **§107-4 Duties of counties relating to maps, surveyors, reports.** Whenever any maps and metes and bounds descriptions

are made by any county department or agency, a certified copy of such map and metes and bounds description shall be filed with the department of accounting and general services. The land surveyors employed by county departments and agencies shall perform their surveying duties in conformance with professional standards to be prescribed by the department and shall report to it from time to time as may be required. [L 1951, c 283, §2; RL 1955, §103-2; am L Sp 1959 2d, c 1, §12; HRS §107-4]

" **§107-5 Costs, fees and charges.** The department of accounting and general services shall be reimbursed for the reasonable costs incurred in furnishing supplies and performing services for any other state department or agency in accordance with a schedule of fees and charges approved by the director of finance after taking into consideration the amount of funds available to such department or agency for such purpose, provided that this section shall not apply to the department of land and natural resources. [L 1951, c 283, §3; RL 1955, §103-3; am L Sp 1959 2d, c 1, §§12, 14, 21; am L 1961, c 132, §1; am L 1963, c 114, §1; HRS §107-5]

" **§107-6 Standards prescribed by department.** All matters pertaining to land surveying, mapping, studying land titles and boundaries, preparing metes and bounds descriptions, setting centerline highway monuments, and other work related thereto performed by the department of transportation shall be performed in conformance with the professional standards to be prescribed by the department of accounting and general services and the cost in connection therewith shall be borne by the department of transportation. [L 1951, c 283, §4; RL 1955, §103-4; am L Sp 1959 2d, c 1, §§12, 26; HRS §107-6]

" **§107-7 Assistance of private employees authorized.** The performance of work under this chapter may include the employment of private land surveyors, engineers, and photogrammetric engineering assistance when necessary, and the cost in connection therewith shall be borne by the department or agency concerned. [L 1951, c 283, §5; RL 1955, §103-5; HRS §107-7]

" **§107-8 REPEALED.** L 1993, c 280, §6.

" **§107-9 Appraisers of property, number.** Whenever the laws of the State require the appraisal of property prior to sale or purchase, the number of appraisers shall be one or more but not more than three disinterested persons, the number to be determined in the discretion of the government agency or officer

required to have the appraisal made. [L 1953, c 210, §1; RL 1955, §7-42; HRS §107-9]

Cross References

Appraisers for public lands, see §171-17.

" **§107-10 Acquiring of real property; prior approval.** No real property or any right, title, or interest therein shall be acquired by agreement, purchase, gift, devise, eminent domain, or otherwise, for any purpose, by the State or any department, agency, board, commission, or officer thereof, without the prior approval of the attorney general as to form, exceptions, and reservations. As to property acquired by the University of Hawaii, the attorney general may delegate to the University general counsel the authority to approve as to form, exceptions, and reservations. In cases involving acquisitions by the University of Hawaii of interests in real property that do not require legislative appropriations, the general counsel for the University of Hawaii may give approval as to form, exceptions, and reservations. [L 1959, c 135, §1; Supp, §7-43; HRS §107-10; am L 2001, c 243, §5]

" **§107-11 Parking; control by comptroller.** (a) The comptroller may assess and collect reasonable fees for parking for all government officials and employees, install parking meters, and restrict and otherwise control parking on all state lands within the comptroller's jurisdiction.

(b) The comptroller may make such rules as may be found necessary to carry out the objects and provisions of this section relating to the control and restriction of parking on all lands of the State which are within the comptroller's jurisdiction. The rules shall be adopted as provided in chapter 91.

(c) Any person who violates any of the rules adopted by the comptroller shall be fined not more than \$50 for each violation; provided that a person violating any provision of part III of chapter 291, or any rule adopted thereunder, shall be guilty of a traffic infraction under chapter 291D and shall be fined or otherwise penalized in accordance with part III of chapter 291.

(d) The comptroller is authorized to confer the powers of police officers, including the power to serve and execute warrants, arrest offenders, and serve notices and orders, to employees of the department of accounting and general services who are engaged as special officers to enforce this section.

(e) There is hereby created a fund to be known as the "state parking revolving fund" which shall be used to carry out the purposes of this section. Such amounts shall be expended by the comptroller from the fund, as may be necessary, to defray the cost of paving parking areas, the purchase and installation of parking meters and the operation thereof, and of other parking facilities on state land within the comptroller's jurisdiction. The state parking revolving fund shall be used to conform with the special fund depository requirements under section 39-62 for all revenues and user taxes received as the result of the issuance of any state parking facility undertaking or loan program revenue bonds.

(f) All fees, charges, and other moneys collected pursuant to this section, and all revenues and user taxes received pursuant to section 39-62 as the result of the issuance of any state parking facility undertaking or loan program revenue bonds shall be deposited in the state parking revolving fund.

(g) All moneys in excess of \$500,000 remaining on balance in the state parking revolving fund on June 30 of each fiscal year shall lapse to the credit of the state general fund. On July 1 of each year, the director of finance is authorized to transfer any excess funds in the state parking revolving fund to the state general fund. [L 1963, c 161, §1; Supp, §110-8; HRS §107-11; am L 1969, c 118, §1; am L 1976, c 223, §1; gen ch 1985; am L 1993, c 280, §5; am L 1995, c 29, §1; am L 1997, c 308, §3; am L 2004, c 43, §20 and c 52, §20]

Cross References

Classification of offense and authorized punishment, see §§701-107, 706-640, 663.

Attorney General Opinions

Revolving fund may be used to operate other parking facilities. Att. Gen. Op. 63-40.

Revenues from parking are a first charge toward payment of revenue bonds authorized by L 1963, c 166. Att. Gen. Op. 63-48.

"PART II. STATE BUILDING CODE AND DESIGN STANDARDS

§107-21 Definitions. As used in this part:

"Codes and standards" means nationally recognized minimum requirements that shall be met for design and construction to safeguard life, property, and the general welfare.

"Council" means the state building code council.

"Department" means the department of accounting and general services.

"Hawaii state building codes" means the building codes and standards that the state building code council adopts under section 107-24.

"Hurricane resistant criteria" means the design criteria for enhanced hurricane protection areas that are capable of withstanding a five hundred-year hurricane event, as developed by the state department of defense for public shelter and residential safe room design criteria.

"State building construction" means any building construction project or program initiated by a state agency or requiring the use of state funds. [L 2007, c 82, pt of §2; am L 2014, c 164, §2]

" **§107-22 State building code council.** (a) There is established a state building code council. The council shall be placed within the department of accounting and general services for administrative purposes only. The council shall consist of eleven voting members and one nonvoting member, who shall be the comptroller or the comptroller's designee. The council members shall serve four-year terms. The voting members shall include:

- (1) One county building official from each of the four counties appointed by the mayor;
- (2) One member representing the state fire council;
- (3) One member representing the department of labor and industrial relations who has significant experience in elevator safety;
- (4) One member representing the state energy office of the department of business, economic development, and tourism;
- (5) One member representing the Structural Engineers Association of Hawaii;
- (6) One member representing the American Institute of Architects, Hawaii State Council;
- (7) One member representing the Building Industry Association of Hawaii or the General Contractors Association of Hawaii, who has significant experience with building codes, with alternating four-year terms between the two organizations and the first four-year term to be served by the Building Industry Association of Hawaii; and
- (8) One member representing the Subcontractors' Association of Hawaii who has significant experience with building codes.

(b) Seven voting members shall constitute a quorum. The chairperson of the council shall be elected annually from among its members by a majority vote of the members of the council.

(c) Members shall serve without compensation, but shall be reimbursed for expenses, including travel expenses necessary for the performance of their duties. [L 2007, c 82, pt of §2; am L 2014, c 164, §3]

" **§107-23 Executive director and executive assistant; council budget.** (a) The council shall appoint, exempt from chapters 76 and 89, an executive director, who shall serve at the pleasure of the council, and who shall have administrative abilities and experience with the building industry. The council shall also appoint, exempt from chapters 76 and 89, an executive assistant, who shall have experience in statutory and administrative rulemaking processes to assist in carrying out the duties of the council under section 107-24. The council may appoint other staff who shall be subject to chapters 76 and 89.

(b) The budgetary requirements for conducting meetings, training, travel, and other related responsibilities of the council, including salaries of the executive director, executive assistant, and other staff, shall be included in the budget of the department of accounting and general services. [L 2007, c 82, pt of §2; am L 2014, c 164, §4]

" **§107-24 Authority and duties of the council.** (a) Any law to the contrary notwithstanding, the council shall establish the Hawaii state building codes.

(b) The council shall appoint a subcommittee comprising the four council members representing county building officials, whose duty shall be to recommend any necessary or desirable state amendments to the codes and standards identified in section 107-25. Any recommended state amendments shall require the unanimous agreement of the subcommittee.

(c) The council shall adopt, amend, or update codes and standards identified in section 107-25 on a staggered basis, as established by the council; provided that the adoption, amendment, or update of any code or standard shall be:

- (1) At least once every six years; and
- (2) Based upon a review and evaluation of the utility of the code or standard at the time each respective edition is published.

(d) The council may appoint other investigative, technical expertise committees, which may include council members.

(e) The council shall consult with general building contractor associations and building trade associations to

gather information and recommendations on construction practices and training relevant to building codes and standards.

(f) The council shall review and adopt, as appropriate, new model building codes within eighteen months of the official publication date.

(g) The council may make expenditures for technical references, equipment and supplies, and other operating expenses, and may contract for the conduct of research studies and other technical services.

(h) The council may provide education and technical training and administrative assistance in the form of services or grants at the state and county levels relating to the implementation and enforcement of the Hawaii state building codes adopted pursuant to this part.

(i) At the end of each fiscal year, the council shall submit a written report to the governor on the council's activities, including the codes and standards adopted, amended, or updated by the council. [L 2007, c 82, pt of §2; am L 2014, c 164, §5]

" **§107-25 Hawaii state building codes; requirements.** There is established the Hawaii state building codes applicable to all construction in the State of Hawaii. The Hawaii state building codes shall be based upon:

- (1) The state fire code as adopted by the state fire council;
- (2) The Uniform Plumbing Code, as copyrighted and published by the International Association of Plumbing and Mechanical Officials, including its appendices;
- (3) The International Building Code, the International Residential Code, and the International Energy Conservation Code, as published by the International Code Council;
- (4) The National Electrical Code, as published by the National Fire Protection Association;
- (5) Hawaii design standards implementing the criteria pursuant to Act 5, Special Session Laws of Hawaii, 2005, as applicable to:
 - (A) Emergency shelters built to comply with hurricane resistant criteria, including enhanced hurricane protection areas capable of withstanding a five hundred-year hurricane event as well as other storms and natural hazards; and
 - (B) Essential government facilities requiring continuity of operations; and
- (6) Code provisions based on nationally published codes or standards that include but are not limited to

residential and hurricane resistant standards related to loss mitigation standards in accordance with section 431P-12, elevator, mechanical, flood and tsunami, existing buildings, and onsite sewage disposal. [L 2007, c 82, pt of §2; am L 2014, c 164, §6]

" **§107-26 Hawaii state building codes; prohibitions.** In adopting the Hawaii state building codes, the council shall not adopt provisions that:

- (1) Relate to administrative, permitting, or enforcement and inspection procedures of each county; or
- (2) Conflict with chapters 444 and 464. [L 2007, c 82, pt of §2; am L 2014, c 164, §7]

" **§107-27 Design of state buildings.** (a) No later than one year after the adoption of rules under this chapter, the design of all state building construction shall be in compliance with the Hawaii state building codes, except state building construction shall be allowed to be exempted from:

- (1) County codes that have not adopted the Hawaii state building codes;
- (2) Any county code amendments that are inconsistent with the minimum performance objectives of the Hawaii state building codes or the objectives enumerated in this part; or
- (3) Any county code amendments that are contrary to code amendments adopted by another county.

(b) Exemptions shall include county ordinances allowing the exercise of indigenous Hawaiian architecture adopted in accordance with section 46-1.55. [L 2007, c 82, pt of §2; am L 2014, c 164, §8]

" **§107-28 County authority to amend and adopt the Hawaii state building codes without council approval.** (a) The governing body of each county shall amend, adopt, and update the Hawaii state building codes as they apply within their respective jurisdiction, in accordance with section 46-1.5(13), without approval of the council. Each county shall amend and adopt the Hawaii state building codes and standards listed in section 107-25, as the referenced Hawaii state building codes and standards for its respective county building code ordinance, no later than two years after the adoption of the Hawaii state building codes.

(b) If a county does not amend the Hawaii state building codes within the two-year time frame, the Hawaii state building

codes shall become applicable as an interim county building code. [L 2007, c 82, pt of §2; am L 2014, c 164, §9]

" **[\$107-29] Rules.** The department shall adopt rules pursuant to chapter 91 necessary for the purposes of this part. [L 2007, c 82, pt of §2]

" **[\$107-30] Annual report.** The department shall report to the legislature, no later than twenty days prior to the convening of each regular legislative session, on the council's activities and accomplishments. [L 2007, c 82, pt of §2]

" **[\$107-31] State building code; compliance.** The design of all state building construction shall be in compliance with the state building code within one year of its effective date. [L 2007, c 82, pt of §2]

Note

State building code, see chapter 3-180, Hawaii Administrative Rules.