

CHAPTER 201
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM

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Note

Alternative energy research and development pilot program (ceases to exist June 30, 2017); revolving fund (abolished June 30, 2017). L 2015, c 159.

Chapter heading amended by L 1987, c 336, §7; L 1990, c 293, §8.

Greenhouse gas emissions reduction task force (report to 2010 legislature and every five years thereafter). L 2007, c 234, §§1 to 7; L 2008, c 235.

Leasing of Hawaii film studio and continuity of film industry branch. L 1997, c 127, §§5, 6.

Reclassification of various housing loan special funds. L 2015, c 237, part V.

State goal for affordable rental housing units; special action team (terminated December 31, 2019); annual reports to 2017-2019 legislature. L 2016, c 127.

Study on feasibility of a reentry academy for training and entrepreneurial resources (RAFTER) for prison inmates; report to 2017 legislature. L 2016, c 227, §§3 to 5.

Venture accelerator funding program; reports to legislature. L 2012, c 170.

Cross References

Energy emergency preparedness, see §§125C-31, 32.

"PART I. RESEARCH AND ECONOMIC DEVELOPMENT

§201-1 Definitions. The following terms, whenever used in this part, shall have the following respective meanings, unless a different meaning clearly appears in the context:

"Agriculture" and "agricultural" mean the planting, cultivating, and harvesting of crops, including those so planted, cultivated, and harvested for food, ornamental, grazing, or forest purposes. Once the crops are harvested and transported to a point of distribution, they cease to be agricultural in the terms of this part.

"Department" means the department of business, economic development, and tourism.

"Government" means the State, or any of its political subdivisions, agencies, and instrumentalities, corporate or otherwise.

"Industry" and "industrial" mean the manufacture, processing, or assembly of raw, semimanufactured, or manufactured products, including agricultural products, but for the purposes of this part, shall not include the growing,

cultivation, or harvesting of agricultural products. [L 1957, c 23, §1; am L Sp 1959 2d, c 1, §§10, 25; am L 1963, c 2, §3; Supp, §28A-1.5; HRS §201-1; am L 1987, c 336, §7; am L 1990, c 293, §8]

Revision Note

Numeric designations deleted and definitions rearranged.

" **§201-2 General objective, functions, and duties of department.** It shall be the objective of the department of business, economic development, and tourism to make broad policy determinations with respect to economic development in the State and to stimulate through research and demonstration projects those industrial and economic development efforts that offer the most immediate promise of expanding the economy of the State. The department shall endeavor to gain an understanding of those functions and activities of other governmental agencies and of private agencies that relate to the field of economic development. It shall, at all times, encourage initiative and creative thinking in harmony with the objectives of the department.

The department of business, economic development, and tourism shall have sole jurisdiction over the land use commission under chapter 205, state planning under chapter 225M, and the Hawaii State Planning Act under chapter 226. Due to the inherently interdependent functions of development, planning, and land use, these functions shall not be transferred by executive order, directive, or memorandum, to any other department, nor shall these functions be subject to review or approval by any other department. [L 1955, c 264, pt of §1; RL 1955, §28A-5; am L 1957, c 23, §4; am L Sp 1959 2d, c 1, §§10, 25; am L 1963, c 2, §3; HRS §201-2; am L 1987, c 336, §7; am L 1990, c 293, §8; am L Sp 2005, c 12, §2]

Cross References

Organization, generally, see §26-18.

Facilitation of permit processing, see §§201-61 to 65.

" **§201-2.5 Fees for services rendered and products provided.**
(a) The department of business, economic development, and tourism may establish reasonable fees for services rendered and products provided by the department. The department shall maintain a reasonable relationship between the revenues derived from fees and the cost or fair value of services rendered and products provided.

(b) The department shall adopt rules pursuant to chapter 91 to carry out its responsibilities under this section. [L 1987, c 122, §2 and am c 336, §7; am L 1990, c 293, §8]

" **§201-3 Specific research and promotional functions of the department.** Without prejudice to its general functions and duties, the department of business, economic development, and tourism shall have specific functions in the following areas:

- (1) Industrial development. The department shall:
 - (A) Determine through technical and economic surveys the profit potential of new or expanded industrial undertakings;
 - (B) Develop through research projects and other means new and improved industrial products and processes;
 - (C) Promote studies and surveys to determine consumer preference as to design and quality and to determine the best methods of packaging, transporting, and marketing the State's industrial products;
 - (D) Disseminate information to assist the present industries of the State, to attract new industries to the State, and to encourage capital investment in present and new industries in the State;
 - (E) Assist associations of producers and distributors of industrial products to introduce these products to consumers; and
 - (F) Make grants or contracts as may be necessary or advisable to accomplish the foregoing;
- (2) Land development. The department shall:
 - (A) Encourage the most productive use of all land in the State in accordance with a general plan developed by the department;
 - (B) Encourage the improvement of land tenure practices on leased private lands;
 - (C) Promote an informational program directed to landowners, producers of agricultural and industrial commodities, and the general public regarding the most efficient and most productive use of the lands in the State; and
 - (D) Make grants or contracts as may be necessary or advisable to accomplish the foregoing;
- (3) Credit development. The department shall:
 - (A) Conduct a continuing study of agricultural and industrial credit needs;

- (B) Encourage the development of additional private and public credit sources for agricultural and industrial enterprises;
 - (C) Promote an informational program to acquaint financial institutions with agricultural and industrial credit needs and the potential for agricultural and industrial expansion, and inform producers of agricultural and industrial products as to the manner in which to qualify for loans; and
 - (D) Make grants or contracts as may be necessary or advisable to accomplish the foregoing;
- (4) Promotion. The department shall:
- (A) Disseminate information developed for or by the department pertaining to economic development to assist present industry in the State;
 - (B) Attract new industry and investments to the State; and
 - (C) Assist new and emerging industry with good growth potential or prospects in jobs, exports, and new products.

The industrial and economic promotional activities of the department may include the use of literature, advertising, demonstrations, displays, market testing, lectures, travel, motion picture and slide films, and other promotional and publicity devices as may be appropriate; and

- (5) Self-sufficiency standard. The department shall establish and update biennially a self-sufficiency standard that shall incorporate existing methods of calculation, and shall reflect, at a minimum, costs relating to housing, food, child care, transportation, health care, clothing and household expenses, federal and state tax obligations, family size, children's ages, geography, and the number of household wage earners. The department shall report to the legislature concerning the self-sufficiency standard no later than twenty days prior to the convening of the regular session of 2009, and every odd-numbered year thereafter. The recommendations shall address, among other things, the use of any federal funding that may be available for the purposes of establishing and updating the self-sufficiency standard.

The department shall be the central agency to coordinate film permit activities in the State. [L 1955, c 264, pt of §1; RL 1955, §28A-6; am L 1957, c 23, §5; am L Sp 1959 2d, c 1, §§10, 25; am L 1963, c 2, §3; HRS §201-3; am L 1974, c 85, §1;

am L 1977, c 12, §1; am L 1981, c 98, §5; am L 1983, c 235, §2; am L 1984, c 81, §1; am L 1987, c 336, §7; am L 1990, c 293, §8; am L 1996, c 166, §4; am L 1998, c 156, §6 and c 176, §8; am L Sp 2008, c 12, §2; am L Sp 2009, c 5, §3]

Revision Note

Paragraph (5) redesignated pursuant to §23G-15(1).

Cross References

Firearms permit for motion picture and television production, see §134-2.5.

New industry training, see §394-8.

" **§201-4 Contracts.** The department of business, economic development, and tourism may contract with qualified private and public agencies, associations, firms, or individuals within or without the State in pursuance of its duties and functions; provided that preference shall be given to contractors within the State; provided further that preference shall be given to qualified parties who agree to match department funds in whole or in part with funds, equipment, materials, or services; provided further that funds to assist associations of producers, processors, or distributors of industrial products to introduce products which are new or inadequately known to consumers shall be matched by funds equal to at least forty per cent of the funds contracted for by the department or expenses incurred by the department in behalf of the associations; provided further that in instances where the promotion program will benefit one or more of the commodity groups as a whole or where a new or fragile commodity association or industry has the potential for growth but is unable to contribute its full matching share, the department may waive matching fund requirements for the first three years of any contract, but shall require twenty per cent matching funds for the fourth year of any such contract, and at least forty per cent matching funds for the fifth and all subsequent years of any such contract.

The contracts shall be approved in writing by the department and shall specify the name of the contractor, the nature of the work to be performed, the manner in which funds may be expended, and such data as the state comptroller may require.

When necessary to effectuate the purposes of this part, funds to state agencies may authorize expenditures for the purchase of machinery and equipment and the erection and conversion of structures, laboratories, and buildings within the

State, which facilities shall be and remain under the jurisdiction of the agencies. Private agencies, associations, firms, or individuals shall provide all structures and equipment necessary to effectuate the purposes of funds made to them, in which cases the value which may be attributed to the use of the facilities shall be considered as matching funds. The department shall retain under its own jurisdiction only such furniture, office equipment, and other equipment as is necessary for administration purposes.

The director of business, economic development, and tourism may prescribe rules, pursuant to chapter 91, to carry out provisions of this section relating to the manner in which associations of producers, processors, or distributors may be assisted. The rules may prescribe the qualifications for eligibility of associations for assistance under this section, the preferences and priorities in determining eligibility for such assistance, and the conditions, consistent with the purpose of this chapter, for the granting or the continuance of assistance to such associations. [L 1955, c 264, pt of §1; RL 1955, §28A-3; am L 1957, c 152, §1; am L 1959, c 51, §1; am L Sp 1959 2d, c 1, §§10, 14, 25; am L 1963, c 2, §3 and c 114, §1; HRS §201-4; am L 1977, c 12, §2; am L 1981, c 98, §6; am L 1982, c 89, §1; am L 1987, c 336, §7; am L 1990, c 293, §8]

" **§201-5 Promotion director and employees.** The director of business, economic development, and tourism shall employ a promotion director who shall be experienced in industrial and economic promotional activities, and who shall be exempt from chapter 76. The director of business, economic development, and tourism may employ other persons and the director shall determine their qualifications, duties, and compensations subject to chapter 76. The compensation of the promotion director shall be determined by the director of business, economic development, and tourism. [L 1955, c 264, pt of §1; RL 1955, §28A-3; am L 1957, c 23, §3; am L Sp 1959 2d, c 1, §25; am L 1963, c 2, §3; HRS §201-5; gen ch 1985; am L 1987, c 336, §7; am L 1990, c 293, §8; am L 2000, c 253, §150]

" **§201-6 Interested members or employees.** No member or employee of the department of business, economic development, and tourism shall have any pecuniary interest, direct or indirect, in any contract entered into by the department. If any such person has an interest, the person shall immediately disclose the same in writing to the department which shall enter the disclosure upon its minutes. Failure to so disclose such interest shall constitute misconduct in office. [L 1955, c 264, pt of §1; RL 1955, §28A-4; am L 1959, c 51, §2; am L Sp 1959 2d,

c 1, §§10, 25; am L 1963, c 2, §3; HRS §201-6; gen ch 1985; am L 1987, c 336, §7; am L 1990, c 293, §8]

" **§201-7 Advisory committees.** The department of business, economic development, and tourism may appoint advisory committees as it deems advisable for the purpose of obtaining expert and specialized counsel and advice on specific matters under consideration by the department and may include as members of the committees officers and employees of any government department or agency. The department may assign its own staff to aid and assist the advisory committees and may reimburse any member of any committee for necessary expenses incurred in the performance of the member's work for the department. [L 1955, c 264, pt of §1; RL 1955, §28A-7; am L 1957, c 23, §6; am L Sp 1959 2d, c 1, §§10, 25; am L 1963, c 2, §3; HRS §201-7; gen ch 1985; am L 1987, c 336, §7; am L 1990, c 293, §8]

" **§201-8 Recommendations to agencies.** On the basis of submitted reports and such other information as the department of business, economic development, and tourism may obtain, it may, as it deems it desirable for the best coordination and effectiveness of economic development activities in the State, make recommendations in writing to any agency of the state government. [L 1955, c 264, pt of §1; RL 1955, §28A-8; am L 1957, c 23, §7; am L Sp 1959 2d, c 1, §§10, 25; am L 1963, c 2, §3; HRS §201-8; am L 1987, c 336, §7; am L 1990, c 293, §8]

" **[§201-8.5] Night sky protection strategy.** (a) Beginning July 1, 2014, all state agencies shall comply with shielded lighting fixture requirements under this section, whereby, except as specified otherwise in subsections (c) through (f), every new outdoor lamp light fixture emitting more than three thousand lumens shall be required to be fully shielded and to have a correlated color temperature of four thousand Kelvin or less; provided that the impact of artificial light on shoreline and ocean waters shall be subject to compliance with section 205A-71. A lighting fixture is considered to be fully shielded when the lighting fixture is shielded in such a manner that all light rays emitted by the fixture, either directly from the lamp, or indirectly from the fixture, are projected below a horizontal plane running through the lowest point of the fixture.

(b) No new mercury vapor lamps shall be sold or installed after July 1, 2014.

(c) As applicable, retrofit work or replacement of existing lighting fixtures shall:

- (1) Limit the rated correlated color temperature of emitted light (lamp, fixture, and filter if used) to less than or equal to four thousand Kelvin, except in the case of outdoor athletic facilities as described in subsection (d);
- (2) Not be subject to the shielding requirement for lamp-by-lamp replacement work; and
- (3) Require one hundred per cent fully shielded lighting fixtures be installed if more than fifty per cent of existing nonconforming lighting fixtures need to be replaced.

(d) For outdoor athletic facilities, fully shielded lighting fixtures with correlated color temperatures less than or equal to four thousand Kelvin are preferred, but not required. Where fully shielded lighting fixtures are not used, acceptable luminaires shall include light fixtures that are:

- (1) Equipped with internal, external, or internal and external glare control louvers and are installed so as to limit direct up-light to less than five per cent of the total lumens exiting from the installed fixtures and minimize offsite light trespass; and
- (2) Installed and maintained with minimum aiming angles of twenty-five degrees downward from the horizontal; provided that the aiming angle shall be measured from the axis of the luminaire maximum beam candlepower, as certified by an independent testing agency.

(e) Fully shielded replacement lighting fixtures for state managed roadways and highways shall be installed on a case-by-case basis, subject to the availability of capital improvement project funding and compliance with applicable federal, state, or county design standards or guidelines. Where fully shielded fixtures are not used, acceptable luminaires shall be partially shielded lights that emit no more than five per cent of their light above the horizontal plane, as certified by an independent testing agency.

(f) The use of existing nonconforming lighting fixtures shall be allowed, subject to compliance with subsection (c)(3), for:

- (1) Lighting fixtures that are extinguished between the hours of 11:00 p.m. and sunrise by an automatic shutoff device; or
- (2) Outdoor amphitheaters, ballparks, playfields, play courts, or other similar recreational facilities, whether public or private, that are used for international, national, state, or county tournaments; or as needed to conclude any recreational event, sporting event, or other related clean up activity

that is in progress prior to 11:00 p.m. at the amphitheater, ballpark, playfield, play court, or similar recreational facility.

(g) The following light sources shall be exempt from this section:

- (1) Lighting sources emitting three thousand lumens or less, which is comparable to a lighting fixture with an incandescent lamp rated at one hundred fifty watts or less, and temporary ornamental holiday lights;
- (2) Emergency lighting used by military, national guard, police, firefighters, correctional, medical, or hazardous material mitigation personnel, or other emergency responders for the duration of the emergency;
- (3) Temporary outdoor lighting used for construction or major renovation of buildings or for highway improvements or construction;
- (4) Temporary outdoor lighting used for film production and other permitted activities such as carnivals and concerts;
- (5) Temporary outdoor lighting used for agricultural operations;
- (6) Navigational lights that are required for waterway, open ocean, and aircraft safety;
- (7) Existing outdoor lighting fixtures that were legally installed prior to July 1, 2014, subject to compliance with subsection (c)(3);
- (8) Outdoor lighting fixtures that are necessary for compliance with applicable federal, state, or county design standards or guidelines that are related to health and safety for the general public;
- (9) Upwards facing lighting fixtures used to illuminate buildings, monuments, statues, memorial structures, national or state flags, and other selected facilities or features that were legally installed prior to July 1, 2014, or that will result in the generation of three thousand lumens or less, as certified by an independent testing agency; and
- (10) Refurbishment, repair, or replacement-in-kind of lighting fixtures that are character-defining features of a historic property, as determined by the department of land and natural resources historic preservation division.

(h) This section shall be considered to be supplemental to any adopted county lighting ordinances and shall not be construed to supersede or modify county lighting ordinances or rules; provided that the county ordinance is not less

restrictive than this section; and provided further that this section shall not apply to counties with populations of less than one hundred thousand persons. [L 2012, c 287, §2]

" **§201-9 Cooperation with other agencies; acceptance and spending of grants; dissemination of findings.** The department of business, economic development, and tourism shall seek the widest possible cooperation, under law, with public and private agencies and the federal government in achieving the purpose of this part. It may accept funds from individuals and other agencies, public and private, and agree to such lawful and reasonable conditions and terms as the donor of funds may require, all toward the end of furthering the purposes of this part. The funds may be expended by the department on vouchers approved by its director, or may be transferred to other state agencies for expenditure by them in effectuating the purposes of this part.

To the end of stimulating cooperation toward the economic development of Hawaii and of disseminating useful information which it obtains, the department shall from time to time publish the results of its research, its findings, and recommendations. [L 1955, c 264, pt of §1; RL 1955, §28A-9; am L 1959, c 51, §3; am L Sp 1959 2d, c 1, §§10, 25; am L 1963, c 2, §3; HRS §201-9; am L 1987, c 336, §7; am L 1990, c 293, §8]

" **§201-10 Reports.** The department of business, economic development, and tourism shall at least once a year, not later than February 15, file a report of its activities for the preceding year with the governor, and shall report to the legislature in every year in which it meets in regular session. The reports may include recommendations with reference to additional legislation or other action that may be necessary to carry out the purposes of this part.

Upon the written request of the department, approved by the governor, any state or county agency engaged in activities relating to economic development shall supply to the department such reports on these activities as the department deems necessary to the effectuation of its functions. [L 1955, c 264, pt of §1; RL 1955, §28A-10; am L Sp 1959 2d, c 1, §§10, 25; am L 1963, c 2, §3; HRS §201-10; am L 1987, c 336, §7; am L 1990, c 293, §8]

Cross References

Due date of annual reports, see §93-12.

" **§201-11 Expenditures.** Expenditures by the department of business, economic development, and tourism, except as otherwise provided by this part, shall be made on the basis of vouchers approved by the director of business, economic development, and tourism, or by a subordinate so authorized by the director. [L 1955, c 264, pt of §2; RL 1955, §28A-12; am L Sp 1959 2d, c 1, §§10, 25; am L 1963, c 2, §3; HRS §201-11; am L 1987, c 336, §7; am L 1990, c 293, §8]

" **[§201-12] State program for energy planning and conservation.** The department shall develop a state program for energy planning and conservation. The program shall consist of short and long-range planning for the development and promulgation of methods to encourage voluntary conservation of gasoline, diesel oil, natural gas, propane, heating oils, other fuels, and electrical energy, and efficient development of new or alternative sources of such fuels and energy. The information resulting from such methods is to be disseminated to the people of Hawaii through all forms of mass communication media, public and private schools, private and civic organizations, and all other appropriate means. Public information offices of other state and county agencies may be called upon for assistance in the development of such program. [L 1974, c 240, §2]

" **§201-12.5 Renewable energy facilitator; establishment; duties.** (a) There is established within the department of business, economic development, and tourism the position of renewable energy facilitator, which shall be a full-time, temporary position exempt from chapters 76 and 89. The renewable energy facilitator shall possess a requisite level of knowledge and expertise in the areas of renewable energy, state and county permitting processes, and management necessary to carry out the duties of the position.

(b) The renewable energy facilitator shall have the following duties:

- (1) Facilitate the efficient permitting of renewable energy projects, including:
 - (A) The land parcel on which the facility is situated;
 - (B) Any renewable energy production structure or equipment;
 - (C) Any energy transmission line from the facility to a public utility's electricity system; and
 - (D) Any on-site infrastructure necessary for the production of electricity or biofuel from the renewable energy site;

- (2) Initiate the implementation of key renewable energy projects by permitting various efficiency improvement strategies identified by the department;
- (3) Administer the day-to-day coordination for renewable energy projects on behalf of the department; and
- (4) Submit periodic reports to the legislature on renewable energy facilitation activities.

(c) The renewable energy facilitator position shall be funded by the energy security special fund. [L 2008, c 208, §2; am L 2009, c 155, §6; am L 2016, c 27, §2]

" **§201-12.8 Energy security special fund; uses.** (a) There is created within the state treasury an energy security special fund, which shall consist of:

- (1) The portion of the environmental response, energy, and food security tax specified under section 243-3.5;
- (2) Moneys appropriated to the fund by the legislature;
- (3) All interest attributable to investment of money deposited in the fund; and
- (4) Moneys allotted to the fund from other sources, including under section 196-6.5.

(b) Subject to legislative appropriation, moneys from the fund may be expended by the department of business, economic development, and tourism for the following purposes and used for no other purposes, except for those set forth in this section:

- (1) To support the Hawaii clean energy initiative program, including its energy division, including funding staff positions within the division, and projects that ensure dependable, efficient, and economical energy, promote energy self-sufficiency, and provide greater energy security for the State;
- (2) To fund the renewable energy facilitator pursuant to section 201-12.5 and any other positions necessary for the purposes of paragraph (1) as determined by the legislature; and
- (3) To fund, to the extent possible, the greenhouse gas emissions reduction task force, climate change task force, grants-in-aid to the economic development boards of each county, and grants-in-aid to economic development agencies of each county to meet the stated objectives of the Hawaii clean energy initiative program.

(c) The department of business, economic development, and tourism shall submit a report to the legislature, no later than twenty days prior to the convening of each regular session, on the status and progress of existing programs and activities and

the status of new programs and activities funded by the energy security special fund. The report shall also include:

- (1) The spending plan of the energy security special fund;
- (2) All expenditures of energy security special fund moneys; and
- (3) The targeted markets of the expenditures, including the reason for selecting those markets; the persons to be served; and the specific objectives of the expenditures, including measurable outcomes. [L 2008, c 208, §3; am L 2010, c 73, §§3, 14 and c 175, §3; am L 2014, c 9, §12 and c 107, §3(2); am L 2015, c 185, §4]

" **§201-13 Powers and duties of the department of business, economic development, and tourism in marine affairs.** The department of business, economic development, and tourism shall:

- (1) Assist state agencies in developing and analyzing plans, including objectives, criteria to measure the accomplishment of objectives, programs through which the objectives are to be attained, and financial requirements for the total and optimum development of Hawaii's marine resources based on the needs and goals of the State;
- (2) Develop and analyze plans for future economic development projects, including objectives and criteria to measure the accomplishment of objectives; develop and implement programs through which the objectives are to be attained; and determine financial requirements for the total and optimum development of Hawaii's marine resources based on the needs and goals of the State;
- (3) Assist those departments having interests in marine affairs, coordinate those activities which involve the responsibilities of multiple state agencies, and encourage the timely and effective implementation of all authorized marine projects and programs;
- (4) Coordinate the dissemination of information to the federal government, other state governments, governments of nations with interests in the Pacific basin, private and public organizations involved in marine science and technology, and commercial enterprises of Hawaii's leadership potential as the center for marine affairs;
- (5) Coordinate the State's involvement in national and international efforts to investigate, develop and utilize the marine resources of the Pacific basin;

- (6) Develop programs to continuously encourage private and public marine exploration and research projects which will result in the development of improved technological capabilities in Hawaii; and
- (7) Formulate and assist state agencies in formulating specific program and project proposals to solicit increased investment by the federal government and other sources to develop Hawaii's marine resources. [L 1982, c 281, §2; am L 1984, c 262, §1; am L 1987, c 336, §7; am L 1990, c 293, §8]

" **§§201-13.5, 13.6 REPEALED.** L 1990, c 293, §§6, 7.

Cross References

Office of tourism, see §§201-91 to 99.

" **[\$201-13.7] Federal funds.** Where the governor or the department with the approval of the governor is able to secure federal funds made available under any act of the Congress of the United States to be expended in connection with or for planning grants and community development block grants, the governor or department shall have the power to enter into such undertakings with the proper officers or agencies of the federal government. The department may adopt rules pursuant to chapter 91 as may be necessary to administer and effectuate federal grants and programs that it has been assigned. [L 1987, c 336, pt of §2]

" **§201-13.8 Data or information collection.** (a) The director, in consultation with all affected governmental agencies, shall assess the need for statistics and other information as to the number, characteristics, needs, and movement of people into, out of, or within Hawaii, including residents, migrants, and visitors, and such other information as the director may deem necessary, for the purposes of sound economic research and analysis. The director shall be responsible for collecting, analyzing, and disseminating such information to governmental agencies on a timely basis, and is authorized to use any appropriate method to collect the information, including but not limited to conducting an entry and exit census or survey of all individuals entering, leaving, or living within the State, and obtaining data or information acquired by other agencies, both public and private. All governmental agencies shall cooperate with and assist the director to implement this section.

(b) To the extent that it is identifiable to an individual, information obtained by the department or its agents through surveys, questionnaires, or other information gathering efforts shall be held confidential and not disclosed or opened to public inspection, except that such information may be shared with other government agencies as provided in section 92F-19.

(c) Public disclosure of information gathered by the department could place businesses at a competitive disadvantage. Consequently, where disclosure would result in the impairment of the department's ability to obtain such information and the frustration of a legitimate government function, the department may withhold from public disclosure competitively sensitive information including:

- (1) Completed survey and questionnaire forms;
- (2) Coding sheets; and
- (3) Database records of such information.

(d) The director may adopt necessary rules pursuant to chapter 91, to administer this section. [L 1987, c 336, pt of §2; am L 1998, c 156, §7]

" **§201-13.9 Medical marijuana; economic and other data; collection.** (a) The department shall continuously collect de-identified information regarding the medical marijuana registry and dispensary programs established pursuant to chapters 329 and 329D, including but not limited to information regarding the:

- (1) Quantities of marijuana cultivated and dispensed;
- (2) Number of qualifying patients;
- (3) Geographic areas in which marijuana is cultivated and consumed;
- (4) Prices of marijuana and related products;
- (5) Number of employment opportunities related to marijuana; and
- (6) Economic impact of marijuana cultivation and sales.

(b) The department of health and dispensaries licensed pursuant to chapter 329D shall provide de-identified aggregated data as required by the department pursuant to this section.

(c) Upon request, the department shall provide an analysis of the aggregated de-identified data to the department of health and the legislature. [L 2016, c 230, §2]

" **§201-14 Consolidated film permit processing.** (a) The department shall consult with state and county agencies in order to identify sites that can be used for making visually recorded productions under terms and conditions as may be determined by the state or county agency having jurisdiction over the sites.

(b) The department may accept an application from any person who proposes to make a motion picture, television show, television commercial, or other visually recorded production at one or more sites on state or county lands, whether or not set aside under section 171-11.

(c) The applicant shall identify the sites to be covered by the permit and provide other information as may be required by the department.

(d) The department may approve and issue a permit to film at any of the sites identified by the appropriate state or county agency under subsection (a). If any site requested for use by the applicant is not identified under subsection (a), the department shall consult with the appropriate state or county agency having jurisdiction over the site to obtain a permit. If the matter of a permit cannot be resolved in this manner, the department shall refer the application to the appropriate state or county agency to obtain a permit.

(e) The department is authorized to make changes to, and extensions of, any approved permits so long as the changes and extensions do not conflict with the policies, terms, and conditions set forth by the agency having jurisdiction over the site in question.

(f) The department may establish memoranda of agreement or adopt rules to implement the intent and purposes of this section.

(g) Nothing in this section shall be construed as waiving the authority of any county or the department of transportation of the State to require a person to obtain a permit from the department or county where the production takes place on or from a public highway.

(h) A vessel engaged in temporary use for film production purposes in accordance with a film permit issued by the department shall not be considered to be a "commercial vessel" within the meaning of section 200-9, 200-10, or 200-39; provided that:

- (1) The period of temporary use does not exceed fourteen hours per day, five days per week, excluding weekends, and for a period not to exceed thirty calendar days; and
- (2) The department may make allowances to include weekends for film production purposes due to inclement weather conditions during the weekday period. [L 1987, c 357, §1; am L 1997, c 298, §1]

" **§201-15 REPEALED.** L 2003, c 178, §2.

" **[\$201-16] Annual report; workforce development.** The department of business, economic development, and tourism shall submit an annual report to the legislature on the department's efforts to increase the number of high-skilled jobs in targeted industry clusters consistent with the efforts of the workforce development council. The department of business, economic development, and tourism shall post the annual report electronically on the Internet. [L 2003, c 148, §2]

" **[\$201-17] Office of international affairs; established.**

(a) There is established, within the department of business, economic development, and tourism, an office of international affairs.

(b) The office shall:

- (1) Develop policies that promote and strengthen relations with other countries in the areas of international business, economy, culture, and the arts;
- (2) Develop policies that promote transportation between, and tourism with, other countries;
- (3) Develop and promote international telecommunications and high technology exchanges;
- (4) Encourage the development of international sister-city programs, pairing Hawaii cities with cities around the globe for artistic, cultural, economic, educational, and faith-based exchanges;
- (5) Develop and promote Hawaii as the economic, trade, commerce, transportation, banking, and tourism hub of the Pacific;
- (6) Develop an international affairs and peace education curriculum that includes studies of international affairs and peace initiatives and takes a proactive, strategic approach to the development of policies that promote the prevention of national and international conflict, nonviolent intervention, mediation, peaceful resolution of conflict, and structured mediation of conflict; and
- (7) Provide for exchanges of individuals between Hawaii and other nations to develop international and peace-based initiatives.

(c) Notwithstanding any other law to the contrary, if any of the responsibilities or duties of the office of international affairs under this section overlap with the responsibilities or duties of another agency or authority under this chapter, the office of international affairs shall have exclusive jurisdiction and authority over those responsibilities and duties. [L 2006, c 172, §2]

" **[\$201-18] Brownfields cleanup revolving loan fund.** (a)

There is established in the state treasury the brownfields cleanup revolving loan fund, into which shall be deposited:

- (1) Funds from federal or private funding sources;
- (2) Moneys received as repayment of loans and interest payments; and
- (3) Any fees collected by the department under this section.

(b) Moneys in the brownfields cleanup revolving loan fund shall be used to provide low interest loans or other authorized financial assistance to eligible public, private, and nonprofit borrowers for cleanup activities of contaminated sites, and site monitoring activities necessary to determine the effectiveness of a cleanup. All environmental response activities receiving funding shall be in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, P.L. 96-510 (42 U.S.C. §§9601-9675), as amended, and shall be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan at 40 Code of Federal Regulations part 300. Moneys from the fund may be used to cover administrative and legal costs of fund management and site management associated with individual loans, to include personnel, services, materials, equipment, and travel for the purposes of this section; provided that the moneys used for these purposes shall not exceed the amounts allowed by the United States Environmental Protection Agency's Brownfields Cleanup Revolving Loan Fund Pilot Program.

(c) The fund shall be administered by the department of business, economic development, and tourism. Appropriations or authorizations from the fund shall be expended by the department. The department may contract with other public or private entities for the provision of all or a portion of the services necessary for the administration and implementation of the loan fund program. The department may set fees or charges for fund management and technical site assistance provided under this section. The department may adopt rules pursuant to chapter 91 to carry out the purposes of this section.

(d) All interest earned on the deposit or investment of the moneys in the fund shall become a part of the fund.

(e) The department shall provide an annual report to the governor and the legislature describing all transactions and activities involved in the administration of the brownfields cleanup revolving loan fund. [L 2002, c 173, §2; am L 2007, c 20, §2]

" **§201-19 Research and statistics for growth industries.**

(a) The department shall maintain a program for the purpose of:

- (1) Measuring and analyzing new economic development trends within growth industries such as:
 - (A) Ocean sciences and technology;
 - (B) Biotechnology and life sciences;
 - (C) Astronomy;
 - (D) Technology and information services;
 - (E) Film and creative media;
 - (F) Diversified agriculture;
 - (G) Aquaculture; and
 - (H) Specialty tourism;
- (2) Providing economic information to policy makers, the public, and the various growth industries under paragraph (1) for use in setting policies, objectives, and goals. This includes collecting, analyzing, and publishing available data on an annual basis relating but not limited to:
 - (A) Economic diversification, income and income distribution, and issues and measures of the State's natural resources in relation to state sustainable economy goals;
 - (B) The technology sector of the State, including but not limited to defining the sector, estimating employment, and compiling available information on patents registered in Hawaii;
 - (C) Technology change in the economy, including but not limited to technical jobs outside the technology sector, and the changing applications of technology in the private economy and government;
 - (D) The technology-based workforce, including but not limited to management, technical, and professional jobs, and technology education and training;
 - (E) Innovation and enterprise, including but not limited to available information on startup companies, venture capital investment, private and government research and development activities, small business innovation research grants, and technology licensing;
 - (F) The dollar value of research and development conducted at, or in association with, the University of Hawaii;
 - (G) Global connections, including but not limited to diversification of export and visitor markets, foreign business travel, and the manufacturing of export products; and

(H) Venture capital investments in Hawaii, including but not limited to the size of local venture investments and their annual growth.

(b) The department shall submit to the legislature no later than twenty days prior to the convening of each regular legislative session, a report that provides an update on the criteria used to measure growth of these emerging growth industries. In updating its reports on growth of emerging industries each year, the department shall develop updated measurements and analyses in collaboration with the University of Hawaii, county economic development boards, and private, nonprofit economic research activities. [L 2007, c 148, §2; am L 2009, c 167, §1]

" **[\$201-20] Building energy efficiency revolving loan fund.**

(a) There is established in the state treasury the building energy efficiency revolving loan fund which shall be administered by the department, and into which shall be deposited:

- (1) Funds from federal, state, county, private, or other funding sources;
- (2) Moneys received as repayment of loans and interest payments; and
- (3) Any fees collected by the department under this section.

(b) Moneys in the building energy efficiency revolving loan fund shall be used to provide low or no interest loans or other authorized financial assistance to eligible public, private, and nonprofit borrowers to make energy efficiency improvements in buildings. Moneys from the fund may be used to cover administrative and legal costs of fund management and management associated with individual loans, to include personnel, services, technical assistance, data collection and reporting, materials, equipment, and travel for the purposes of this section.

(c) Appropriations or authorizations from the fund shall be expended by the department. The department may contract with other public or private entities for the provision of all or a portion of the services necessary for the administration and implementation of the loan fund program. The department may set fees or charges for fund management and technical site assistance provided under this section. The department may adopt rules pursuant to chapter 91 to carry out the purposes of this section.

(d) All interest earned on the deposit or investment of the moneys in the fund shall become a part of the fund.

(e) The department may establish subaccounts within the fund as necessary. [L 2009, c 155, §12]

"PART II. PLANNING

§§201-21 to 31 REPEALED. L 1987, c 336, §9.

Cross References

State planning, see chapter 225M.

"PART III. [OLD] PLANNING INFORMATION

§§201-41 to 43 REPEALED. L 1979, c 58, §2.

[PART III. NEW] PLANNING INFORMATION

§§201-43.5 to 45 REPEALED. L 1987, c 336, §9.

"[PART IV.] FACILITATION OF PERMIT PROCESSING

Note

Short title, see L 1985, c 237, §1; L 1987, c 87, §1.

§201-61 Definitions. As used in this part, unless the context otherwise requires:

"Department" means the department of business, economic development, and tourism.

"Permit" means any license, permit, certificate, certification, approval, compliance schedule, or other similar document or decision pertaining to any regulatory or management program which is related to the protection, conservation, use of, or interference with the natural resources of land, air, or water in the State, and which is required prior to constructing or operating a project.

"Project" means any land or water use activity or any construction or operation which requires permits from one or more state agencies or permits from a state agency and a county or federal agency. Construction or operation of an activity may include, but need not be limited to housing, industrial, and commercial operations and developments. [L 1985, c 237, pt of §4; am L 1987, c 87, pt of §1 and am c 336, §7; am L 1990, c 293, §8]

" **§201-62 Facilitated application process.** (a) State agencies are required, and county agencies are authorized and

encouraged, to participate in the facilitated application process set forth herein.

(b) The department shall serve as the lead agency for the facilitated application procedure and shall be the lead agency to administer the facilitated application procedure for any project that requires both county permit applications and state agency approval.

(c) The procedure shall be as follows:

- (1) An applicant for two or more state permits may apply in writing to the department requesting a facilitated application process for the consideration of the application. The written request shall include sufficient data about the proposed project for the department to determine which other agencies or authorities may have jurisdiction;
- (2) Upon receiving a written request for the facilitated application process, the department shall notify all federal, state, and county agencies or authorities that the department determines may have jurisdiction over part or all of the proposed project, and require those state agencies or authorities and invite those county and federal agencies or authorities to participate in the facilitated application process;
- (3) The applicant and each agency or authority required or agreeing to participate in the facilitated application process shall designate a representative to serve on the facilitated application review team;
- (4) Any state agency or authority designated by the department as a party to an application review that is not able to participate, shall submit an explanation, in writing, to the department as to the reasons and circumstances for noncompliance;
- (5) The representatives of the agencies, authorities, and the applicant may develop and sign a joint agreement among themselves identifying the members of the facilitated application review team, specifying the regulatory and review responsibilities of each government agency and setting forth the responsibilities of the applicant, and establishing a timetable for regulatory review, the conduct of necessary hearings, preparation of an environmental impact statement if necessary, and other actions required to minimize duplication and coordinate the activities of the applicant, agencies, and authorities;
- (6) Each agency or authority shall issue its own permit or approval based upon its own jurisdiction. The

facilitated application process shall not affect or invalidate the jurisdiction or authority of any agency under existing law; and

- (7) The applicant shall apply directly to each federal or county agency that does not participate in the facilitated application process.

(d) If a state regulatory permit is necessary to obtain a county permit, then a county agreeing to participate in the facilitated application process may advise the applicant of the facilitated application procedure. To apply for the facilitated application procedure, applicants for county permits involving state permit approvals shall submit a form, which shall be issued by the department; provided that this procedure shall apply only to state permits that need to be approved by a state agency following a review of the plans and certifications submitted by the applicant. State permits that are approved by rule require only that the licensed design professional certify that the plans and specifications are in compliance with state rules. No review by a state agency is required for state approval. Plans and specifications requiring state agency review shall be submitted with the facilitated application procedure to the appropriate state agency, with a copy to the department. If a state permit is approved by rule, then the participating county shall provide a set of drawings and specifications submitted by the applicant to the state agency that developed the rules.

In developing the procedures for approval by rule and by review, permit requirements shall be clearly stated. Performance standards, rather than specific technologies or procedures, shall be specified when appropriate.

- (e) For purposes of this section:

"Permit by review" means permits approved by the appropriate state departments.

"Permit by rule" means permits approved by administrative rule. [L 1985, c 237, pt of §4; am L 1987, c 87, pt of §1; am L 1997, c 127, §3; am L 1999, c 243, §2]

Cross References

Business action center, see chapter 201D.

Concurrent processing, see §46-15.7.

" **§201-62.5 REPEALED.** L 2003, c 3, §18.

Note

Leasing of Hawaii film studio and continuity of film industry branch. L 1997, c 127, §§5, 6.

- " **[\$201-63] Information services.** The department shall:
- (1) Operate a permit information and coordination center for public use during normal working hours, which provides guidance in regard to the permits and procedures that may apply to specific projects; and
 - (2) Maintain and update a repository of the laws, rules, procedures, permit requirements, and criteria of federal, state, and county agencies having control or regulatory power over land and water use for development or the control or regulatory power over natural, cultural, or environmental resources. [L 1985, c 237, pt of §4; am L 1987, c 87, pt of §1]
- " **[\$201-64] Streamlining activities.** The department may:
- (1) Monitor permits on an ongoing basis to determine the source of inefficiencies, delays, and duplications and the status of permits in progress;
 - (2) Pursue the implementation of streamlining measures including, but not necessarily limited to, those measures defined in consultation with affected state agencies, county central coordinating agencies, and members of the public; and
 - (3) Design applications, checklists, and other forms essential to the implementation of approved streamlining measures in coordination with involved state and county regulatory agencies, and members of the public. [L 1985, c 237, pt of §4; am L 1987, c 87, pt of §1]
- " **[\$201-65] Reporting.** The department shall report biennially to the legislature on actions taken, problems encountered, and legislative actions that may be needed to further implement the intent of this part. [L 1985, c 237, pt of §4; am L 1987, c 87, pt of §1]

"PART V. OFFICE OF AEROSPACE DEVELOPMENT

Note

Part heading amended by L 2007, c 149, §2(1).

A. General Provisions

Note

Subpart heading designation added by L 2012, c 169, §3.

§201-71 Definitions. As used in this part:

"Board" means the board of directors of the Pacific international space center for exploration systems.

"Director" means the director of the office of aerospace development.

"Office" means the office of aerospace development.

"Space center" means the Pacific international space center for exploration systems. [L 1988, c 355, pt of §2; am L 2007, c 149, §2(2); am L 2012, c 169, §4]

" **§201-72 Office of aerospace development; establishment.**

(a) There is established an office of aerospace development in the department of business, economic development, and tourism.

(b) The director shall have experience, knowledge, and expertise in space-related activities and development. The director shall be nominated and appointed by the governor without regard to chapter 76.

(c) The director shall hire staff necessary to carry out the purposes of this part.

(d) The director and employees of the office shall be included in any benefit program generally applicable to the officers and employees of the State. [L 1988, c 355, pt of §2; am L 1990, c 293, §8; am L 2000, c 253, §150; am L 2007, c 149, §2(3)]

Revision Note

In subsection (c), "part" substituted for "chapter".

" **§201-72.5 Aerospace advisory committee.** (a) There is established an aerospace advisory committee within the office of aerospace development of the department of business, economic development, and tourism for administrative purposes. The committee shall be composed of thirteen members appointed by the governor, as provided in section 26-34, except as otherwise provided in this section. Of the thirteen members:

- (1) Three members shall be representatives of the aerospace industry. One member shall be appointed from a list of nominees submitted by the president of the senate, and one member shall be appointed from a list of nominees submitted by the speaker of the house of representatives;
- (2) Three members shall be representatives of the aerospace industry in this State. One member shall be

appointed from a list of nominees submitted by the president of the senate, and one member shall be appointed from a list of nominees submitted by the speaker of the house of representatives;

- (3) Four members shall represent the economic development boards of Kauai, Oahu, Maui, and Hawaii, respectively, to be appointed, respectively, from a list of nominees submitted by each of these economic development boards; and
- (4) Three members shall represent the University of Hawaii at Manoa, University of Hawaii at Hilo, and University of Hawaii community college system, respectively, to be appointed, one each, from a list of nominees submitted by the University of Hawaii at Manoa, University of Hawaii at Hilo, and University of Hawaii community college system, respectively.

The committee shall elect one of its members to serve as chairperson.

(b) All members shall serve for a term of four years. Any vacancies occurring in the membership of the committee shall be filled for the remainder of the unexpired term in the same manner as the original appointments.

(c) The purpose of the aerospace advisory committee shall be to advise and assist the legislature and state agencies in monitoring, assessing, and promoting aerospace development statewide by:

- (1) Tracking state, national, and global trends and priorities in aerospace development;
- (2) Assisting in identifying and promoting opportunities to expand and diversify aerospace development and aerospace-related industries in this State;
- (3) Supporting the office of aerospace development's effort in networking with national and international aerospace agencies, institutions, and organizations to develop public-private partnerships to support the growth of aerospace development and aerospace-related industries in this State;
- (4) Recommending innovative scientific, educational, and economic strategies and government and education policies to promote the growth and diversification of the aerospace industry in this State; and
- (5) Appointing temporary working groups, as deemed appropriate in the committee's discretion, to assist the office of aerospace development in research and analysis activities required to complete any report to be submitted to the legislature and the governor by the office of aerospace development.

(d) Members of the aerospace advisory committee shall receive no compensation but shall be reimbursed for necessary expenses, including travel expenses, incurred in the performance of their duties as members of the committee.

(e) The committee shall convene for quarterly meetings in the city and county of Honolulu; provided that any member who is not a state resident may attend a meeting by teleconference.

(f) Administrative support to the committee, including the development and dissemination of reports and advisory opinions, shall be provided by the department of business, economic development, and tourism. [L 2009, c 52, §1; am L 2013, c 108, §1 and c 158, §1; am L 2016, c 84, §1]

" **[\$201-72.6] Hawaii unmanned aerial systems test site advisory board; established.** (a) There is established a Hawaii unmanned aerial systems test site advisory board, as a subcommittee of the Hawaii aerospace advisory committee, to oversee the planning and operation of the Hawaii unmanned aerial systems test site.

(b) The board shall be composed of seven members as follows:

- (1) The adjutant general, or the adjutant general's designee;
- (2) The director of transportation, or the director's designee;
- (3) The director of business, economic development, and tourism, or the director's designee;
- (4) The president of the University of Hawaii, or the president's designee;
- (5) One member representing the Hawaii business community, to be appointed by the governor pursuant to section 26-34; and
- (6) Two members representing the aerospace or aviation industries, to be appointed by the governor pursuant to section 26-34.

Each board member shall serve for a term of four years; provided that the initial terms shall be staggered, as determined by the governor.

(c) Members of the board shall not receive compensation for their services but shall be reimbursed for necessary expenses, including travel expenses, incurred in the performance of their duties under this section. [L 2015, c 208, pt of §2]

" **[\$201-72.7] Hawaii unmanned aerial systems test site chief operating officer.** The department shall hire a chief operating officer who shall manage the operations of Hawaii's unmanned aerial systems test site. The chief operating officer shall:

- (1) Monitor, oversee, and recommend operations of unmanned aerial systems test site activities;
- (2) Facilitate opportunities for public and private use of unmanned aerial systems test site facilities;
- (3) Assist unmanned aerial systems test ranges;
- (4) Leverage aerospace and related technological capabilities in the State's academic, public, and private sectors to support testing and evaluation at Hawaii's unmanned aerial systems test ranges;
- (5) Promote innovative education and workforce development programs to enhance public awareness of the benefits and opportunities that unmanned aerial systems technologies and applications can bring to the State;
- (6) Monitor national and global trends in unmanned aerial systems development and testing, and recommend policies and programs to advance unmanned aerial systems testing in Hawaii;
- (7) Establish and maintain a public website with updated information on the program and provide information on the Hawaii unmanned aerial systems test site initiative;
- (8) Contract for services and implement agreements, subject to chapter 103D, as may be necessary to conduct operations at Hawaii's unmanned aerial systems test ranges;
- (9) Serve as Hawaii's representative on the Pan-Pacific Unmanned Aerial Systems Test Range Complex management team; and
- (10) Submit an annual report to the legislature no later than twenty days prior to the convening of each regular session, which shall include the status of work, expenditures, and trends regarding Hawaii's unmanned aerial systems test site.

The chief operating officer may employ one administrative assistant for Hawaii's unmanned aerial systems test site operations and activities. [L 2015, c 208, pt of §2]

" **§201-73 Powers and duties of director.** In addition to any other powers and duties provided in this part, the director shall:

- (1) Oversee, supervise, and direct the planning, evaluation, and coordination of space-related activities and identify and promote opportunities for expanding and diversifying aerospace-related industries in the State, which may include a Pacific international center for space exploration systems to support space exploration and settlement;

- (2) Initiate discussions for private and international involvement in space-related activities in the State;
- (3) Assist the University of Hawaii, local companies, research institutions, and other interested organizations in establishing partnerships with corporate, government, and university entities that can promote and enhance the State's aerospace industry;
- (4) Leverage aerospace and related technological capabilities in the State's academic, public, and private sectors to enhance the State's ability to procure both federal and private research and development grants and to increase the State's competitiveness in national and global aerospace markets;
- (5) Promote innovative education and workforce development programs that will enhance public awareness of the State's aerospace potential and enable residents to pursue employment in Hawaii's aerospace industry;
- (6) Monitor national and global trends in the aerospace industry and recommend programs and policies that can support aerospace industry development statewide;
- (7) Review the effectiveness of present publications, pamphlets, and other sources of information about Hawaii's space-related activities produced and distributed by the State;
- (8) Serve as a clearinghouse for information on Hawaii's space-related activities to include but not be limited to those of the University of Hawaii and federal agencies located in Hawaii;
- (9) Target existing businesses that can provide products or services of importance to the space industry to support the expansion of these businesses in Hawaii;
- (10) Increase contact and maintain liaison with the National Aeronautics and Space Administration and other federal agencies and facilities;
- (11) Institute procedures by which citizen input on proposed space facilities development shall be invited at the earliest possible time in the development process;
- (12) Adopt, amend, and repeal rules pursuant to chapter 91 necessary to carry out this part;
- (13) Contract for services as may be necessary for the purposes of this part; and
- (14) Do all other things necessary or proper to carry out the purposes of this part. [L 1988, c 355, pt of §2; am L 2007, c 149, §2(4)]

Revision Note

In first paragraph, "part" substituted for "chapter".

" **§201-74 REPEALED.** L 2007, c 149, §2(5).

" **[\$201-75] Space vehicles; prohibitions.** Any vehicle launched into space from the land or ocean territory of the State shall not carry weapons of destruction, nuclear waste materials, or use radioactive materials as a power source. [L 1990, c 172, §1]

"B. Pacific International Space Center for
Exploration Systems

[\$201-76] Pacific international space center for exploration systems. (a) There is established the Pacific international space center for exploration systems, to be administratively attached to the office of aerospace development in the department of business, economic development, and tourism.

(b) The space center may employ, subject to chapter 76, technical experts and officers, agents, and employees, permanent and temporary, as required. The space center may also employ officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapter 76, when in the determination of the board, the services to be performed by those employed are unique and essential to the execution of the functions of the space center. [L 2012, c 169, pt of §2]

" **§201-77 Pacific international space center for exploration systems; board of directors; establishment; duties.** (a) There is established the board of directors of the Pacific international space center for exploration systems, consisting of nine members, to include:

- (1) The executive director of the space center as an ex officio, voting member;
- (2) The director of business, economic development, and tourism, or the director's designated representative;
- (3) The president of the University of Hawaii, or the president's designated representative; and
- (4) Six members from government, industry, and academia, both national and international, with appropriate professional interests and backgrounds,

to be appointed by the governor, pursuant to section 26-34; provided that of the members appointed under paragraph (4), two members shall be appointed from a list of nominees submitted by the president of the senate, two members shall be appointed from a list of nominees submitted by the speaker of the house of representatives, and two members shall be appointed by the governor.

The board shall select a chairperson from among its members.

(b) Five members shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the space center. The members of the board shall serve without compensation, but shall be entitled to reimbursement for necessary expenses, including travel expenses, incurred in the performance of their duties.

(c) The director of business, economic development, and tourism shall appoint an executive director to the space center, subject to confirmation by the board, who shall be exempt from chapter 76. The board shall set the salary and duties of the executive director. [L 2012, c 169, pt of §2; am L 2016, c 3, §1]

" **[\$201-78] General powers.** (a) The board may:

- (1) Sue and be sued;
- (2) Adopt a seal and alter the seal at pleasure;
- (3) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers; and
- (4) Adopt bylaws and rules, which shall be exempt from chapter 91, for its organization and internal management, and to carry into effect its purposes, powers, and programs.

(b) In addition to other powers conferred upon it, the board may do all things necessary and convenient to carry out the powers expressly provided in this subpart. [L 2012, c 169, pt of §2]

" **[\$201-79] Powers and duties of the Pacific international space center for exploration systems executive director.** In addition to any other powers and duties provided in this subpart, the executive director shall:

- (1) Oversee, supervise, and direct the planning, evaluation, and coordination of space-related activities, and identify and promote opportunities for expanding and diversifying aerospace-related industries in the State pertaining to the space center;

- (2) Establish partnerships with corporate, government, and University of Hawaii entities that can promote and enhance the State's aerospace industry; and where possible, help to generate additional revenue for the University of Hawaii and create classes and other educational opportunities for students;
- (3) Work with local universities and community colleges to facilitate internships for students with the space center and associated companies;
- (4) Continue to work with the University of Hawaii on course development, teaching, workforce development, and outreach;
- (5) Promote innovative educational and workforce development programs that will enhance public awareness of the space center and enable residents to pursue employment in Hawaii's aerospace industry;
- (6) Act as the public representative of the space center;
- (7) Monitor national and global trends in the aerospace industry and promote global awareness of the space center;
- (8) Pursue projects in the aerospace sector that can be leveraged for improvements to the State's broadband and alternative energy capabilities;
- (9) Serve as a clearinghouse for information on the space center and associated activities;
- (10) Target existing businesses that can provide products or services of importance to the space center and its projects to support the expansion of these businesses in Hawaii;
- (11) Increase contact and maintain liaison with the National Aeronautics and Space Administration, related aerospace organizations, and other federal agencies and facilities;
- (12) Maintain and expand liaisons with local business and citizen groups;
- (13) Work with private landowners in the vicinity to expand opportunities and physical space and appurtenances for the participants in the space center's aerospace technology research and development park;
- (14) Adopt, amend, and repeal rules pursuant to chapter 91 necessary to carry out this subpart;
- (15) Contract for services as may be necessary for the purposes of this subpart; and
- (16) Do all other things necessary or proper to carry out the purposes of this subpart. [L 2012, c 169, pt of §2]

" **[§201-80] Pacific international space center for exploration systems; reporting requirement.** The Pacific international space center for exploration systems shall submit, no later than September 1 of each year, an annual report to the legislature that includes:

- (1) An updated business plan regarding the aerospace technology research and development park project;
- (2) Details on any progress made toward the development of a world-class space center in Hawaii;
- (3) The development of technologies and any concomitant effect on the level of resource imports into the State;
- (4) The status of all working relationships with educational and research institutions and federal agencies;
- (5) Details on any progress made toward the development of a robotic operator training and certification program;
- (6) The level of private sector investment in aerospace and related industries, including the number and nature of any partnerships with private industry to facilitate state-based manufacturing and operations related to green energy technology;
- (7) The status of the memorandum of understanding with Hawaii Techworks and the east Hawaii community development corporation regarding the cultivation of a skilled local workforce to support planned manufacturing operations; and
- (8) A detailed statement of assets, liabilities, revenues, and expenses for each fiscal year ending June 30. [L 2013, c 273, §2]

" **[§201-80.2] Pacific international space center for exploration systems special fund.** (a) There is established in the state treasury the Pacific international space center for exploration systems special fund, into which shall be deposited:

- (1) Revenues, moneys, and fees from services, rentals, publications, royalties, and patents generated under this subpart;
- (2) Gifts, donations, and grants received by the Pacific international space center for exploration systems; and
- (3) Proceeds from revenue bonds issued by the director of finance.

(b) Moneys in the fund shall be used by the Pacific international space center for exploration systems for the operation, maintenance, and management of its projects, facilities, services, and publications and for the design and

construction of new facilities and the renovation of or addition to existing facilities.

(c) All moneys remaining in the Pacific international space center for exploration systems special fund at the close of each fiscal year that are deemed, by the director of finance, to be in excess of the moneys necessary to carry out the purposes of this section in the next fiscal year shall lapse to the credit of the state general fund. [L 2015, c 163, §2]

"[PART VI.] OUT-OF-STATE OFFICES

§201-81 Establishment of out-of-state offices; purposes.

The department of business, economic development, and tourism may establish and operate offices in out-of-state locations, including foreign nations, to effectuate the following purposes:

- (1) Develop programs to reach targeted companies or industries in the respective area and surrounding regions;
- (2) Monitor out-of-state government policies and regulations that have an impact on business, markets, sales, tourism, and related activities;
- (3) Host government and business officials at conferences, meetings and social occasions, or other events on matters pertaining to business opportunities and attraction of investments for the State;
- (4) Develop and conduct advertising efforts, promotional events, media coverage, and educational programs regarding commerce in the State; and
- (5) Conduct related operations as needed, such as hiring or contracting for consultants. [L 1988, c 366, pt of §1; am L 1990, c 293, §8]

" **§201-82 Powers of the department.** The department, subject to the approval of the director of budget and finance, shall have the following general powers to operate out-of-state offices established:

- (1) To enter into contracts, leases, or cooperative agreements, or perform other transactions with any person, firm, partnership, association, company, corporation, or foreign nation, as may be necessary in the conduct of its business and on such terms as the department may deem appropriate, using competitive procurement practices, to the extent practicable, in accordance with rules adopted by the policy board;
- (2) To establish operational bank accounts in out-of-state locations, including foreign denomination accounts, as

- may be necessary in the conduct of its business, notwithstanding the provisions of chapter 38;
- (3) To receive by gifts, grants, devises, bequests, or otherwise from private sources or a foreign nation, any property, real, personal, or mixed, intangible or tangible, absolutely or in trust, to be used and disposed of, either the principal or the income therefrom, in accordance with the conditions under which it was received;
 - (4) To sell, lease, rent, hold, maintain, use, and operate any property, real, personal, or mixed, tangible or intangible, in accordance with the conditions under which it was received;
 - (5) To hire such personnel as may be necessary in the conduct of its business and on such terms as the department may deem appropriate; and
 - (6) To do any or all other acts reasonably necessary to carry out the objects and purposes of this part, provided that the department shall not obligate any funds of the State not appropriated to the department. [L 1988, c 366, pt of §1; am L Sp 1993, c 8, §17; am L 1997, c 352, §23]

" **§201-83 Rules.** The department may adopt rules in accordance with chapter 91 for the purposes of this part. [L 1988, c 366, pt of §1]

Revision Note

"Part" substituted for "chapter".

" **§201-84 Annual report.** The department of business, economic development, and tourism shall submit an annual report to the legislature on the operations of its out-of-state offices. For each out-of-state office the report shall describe and include, but not be limited to:

- (1) The programs developed to reach targeted companies or industries in the respective area or surrounding region, and the result of these programs;
- (2) The major out-of-state government policies and regulations affecting business and economic development in Hawaii;
- (3) The major advertising efforts, promotional events, media coverage, and educational programs developed and conducted regarding business opportunities in the State; and

- (4) An expenditure report which shall include a detailed description of expenditures involving staffing and contracted personal services. [L 1988, c 366, pt of §1; am L 1990, c 293, §8]

" **§201-85 Exemptions.** The department is authorized to hire employees necessary to staff its out-of-state offices subject to chapter 76 and legislative appropriations. The department may also appoint such other employees exempt from chapter 76 as may be necessary to administer the affairs of its out-of-state offices. The initial appointment shall not exceed three years, during which time the department shall submit to the legislature a request for approval prior to continuation of the position. The department shall set the duties, responsibilities, salaries, holidays, vacations, leaves, hours of work, and working conditions for these employees. Subject to the approval of the director of budget and finance, the department may be exempted from the following state laws only to the extent necessary for the conduct of its business in operating out-of-state offices:

- (1) Sections 36-27 and 36-30, relating to special fund transfers and reimbursements to the general fund;
- (2) Chapter 36, relating to management of state funds;
- (3) Chapter 38, relating to deposits of public funds;
- (4) Chapter 40, relating to audit and accounting, except that the department shall comply with section 40-81;
- (5) Chapter 76, relating to civil service;
- (6) Chapter 77, relating to compensation;
- (7) Section 78-1, relating to public employment, except when expressly hiring personnel subject to section 78-1; and
- (8) Section 171-30, relating to acquisition of real property.

All moneys necessary for the establishment and operation of out-of-state offices shall be allocated by the legislature through appropriations out of the state general fund. The department shall include in its budgetary request for each upcoming fiscal period, the amounts necessary to effectuate the purposes of this section. [L 1988, c 366, §2; am L 1993, c 280, §21; am L Sp 1993, c 8, §54; am L 2000, c 253, §150; am L 2004, c 216, §22]

Note

Chapter 77 referred to in text is repealed. For related provision, see §76-13.5.

"PART VII. TOURISM--REPEALED

§§201-91 to 201-99 REPEALED. L 2002, c 38, §2.

Cross References

For similar provisions, see chapter 201B.

"PART VIII. RECYCLING

[\$201-101] Development of markets for recycled materials.

The department, to the extent possible, and with the assistance of the office of solid waste management, shall coordinate state efforts to develop markets for recycled materials. The department shall integrate this activity with its other programs, specifically those programs relating to business development and energy. The department shall coordinate market activities with the counties and clarify their respective roles and responsibilities. [L 1991, c 324, pt of §3]

Cross References

Construction projects; recycled glass requirements, see §103D-407.

Glass container recovery, see §§342G-81 to 89.

Integrated solid waste management, see chapter 342G.

" **[\$201-101.5] Definitions.** As used in this part:

"Department" means the department of business, economic development, and tourism.

"Director" means the director of business, economic development, and tourism. [L 1999, c 112, pt of §1]

" **§201-102 Advisory committees.** (a) The director of business, economic development, and tourism may form advisory committees to assist in the formulation of recommendations concerning the development of markets for recycled materials. The recommendations shall address the removal of impediments to, as well as the establishment of incentives for, the use of recycled materials by businesses or energy producers in order to expand markets for recyclable materials.

(b) At the discretion of the director, committee members may include, but need not be limited to:

- (1) The director of health;
- (2) The director of the office of planning;
- (3) The chairperson of the board of land and natural resources;
- (4) The comptroller;

- (5) The chairperson of the public utilities commission;
 - (6) The director of transportation;
 - (7) The county integrated solid waste management coordinators;
 - (8) One representative each from the not-for-profit recycling industry, the for-profit recycling industry, the solid waste collection industry, the recycling processing industry, the recycling brokerage and marketing industry, the shipping industry, and an environmental advocacy group; and
 - (9) An elected official from each county;
- or their designated representatives. [L 1991, c 324, pt of §3; am L 1996, c 299, §3]

" **[\$201-103] Studies.** The director of business, economic development, and tourism may conduct studies necessary to prepare recommendations on the development of markets for recycled materials. [L 1991, c 324, pt of §3]

" **[\$201-104] Report.** The director of business, economic development, and tourism shall incorporate the activities of the past year and any recommendations for specific actions to develop markets for recycled materials in the department's annual report. [L 1991, c 324, pt of §3]

" **[\$201-105] Legislation and rules.** The department, with the assistance of the office of solid waste management, shall coordinate the following activities, as necessary, to develop markets for recycled materials:

- (1) The development and introduction of proposed legislation; and
- (2) The development of rules by the appropriate state agencies.

It is the intent of the legislature that implementation of the department's recommendations be expedited. [L 1991, c 324, pt of §3]

" **§201-106 REPEALED.** L 2003, c 178, §3.

"[PART IX.] HAWAII TELEVISION AND FILM DEVELOPMENT

[\$201-111] Definitions. As used in this part:

"Applicant" means a person applying for a grant or venture capital investment from the board under this part.

"Board" means the Hawaii television and film development board.

"Eligible Hawaii project" or "project" means an entertainment project in which at least seventy-five per cent of the budget for the production costs, excluding salaries and costs for the producer, director, writer, screenplay, and actors in the project, is dedicated for the purchase or lease of goods or services from a vendor or supplier who is located and doing business in the State.

"Fund" means the Hawaii television and film development special fund.

"Venture capital investment" means any of the following investments in a project:

- (1) Common or preferred stock and equity securities without a repurchase requirement for at least five years;
- (2) A right to purchase stock or equity securities;
- (3) Any debenture, whether or not convertible or having stock purchase rights, which is subordinated, together with security interests against the assets of the borrower, by their terms to all borrowings of the borrower from other institutional lenders, and that is for a term of not less than three years, and that has no part amortized during the first three years; and
- (4) General or limited partnership interests. [L 2000, c 285, pt of §2]

" **[\$201-112] Hawaii television and film development board.**

(a) There is established the Hawaii television and film development board. The board shall be attached to the department of business, economic development, and tourism for administrative purposes only. The board shall administer the grant and venture capital investment programs and the Hawaii television and film development special fund established under this part. The board shall also assess and consider the overall viability and development of the television and film industries and make recommendations to appropriate state or county agencies.

(b) The board shall be composed of nine members, four of whom shall be appointed by the governor pursuant to section 26-34, and all of whom shall serve four-year staggered terms. One of the governor's appointments shall be made from a list of nominees submitted by the president of the senate and another appointment shall be made from a list of nominees submitted by the speaker of the house of representatives. The four appointed members shall possess a current working knowledge of the film, television, or entertainment industry. The director of business, economic development, and tourism, and the chairs of the four county film commissions or its equivalent, shall serve

as ex officio voting members, who may be represented on the board by designees.

The chairperson and vice chairperson of the board shall be selected by the board by majority vote. Five members shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the board. The members shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(c) The film industry branch development manager shall serve as the executive secretary of the board.

(d) The board may adopt rules pursuant to chapter 91 to effectuate the purposes of this part. [L 2000, c 285, pt of §2]

" **[\$201-113] Hawaii television and film development special fund.** (a) There is established in the state treasury the Hawaii television and film development special fund into which shall be deposited:

- (1) Appropriations by the legislature;
- (2) Donations and contributions made by private individuals or organizations for deposit into the fund;
- (3) Grants provided by governmental agencies or any other source; and
- (4) Any profits or other amounts received from venture capital investments.

(b) The fund shall be used by the board to assist in, and provide incentives for, the production of eligible Hawaii projects that are in compliance with criteria and standards established by the board in accordance with rules adopted by the board pursuant to chapter 91. In particular, the board shall adopt rules to provide for the implementation of the following programs:

- (1) A grant program. The board shall adopt rules pursuant to chapter 91 to provide conditions and qualifications for grants. Applications for grants shall be made to the board and shall contain such information as the board shall require by rules adopted pursuant to chapter 91. At a minimum, the applicant shall agree to the following conditions:
 - (A) The grant shall be used exclusively for eligible Hawaii projects;
 - (B) The applicant shall have applied for or received all applicable licenses and permits;
 - (C) The applicant shall comply with applicable federal and state laws prohibiting discrimination against any person on the basis of race, color,

- national origin, religion, creed, sex, age, or physical handicap;
- (D) The applicant shall comply with other requirements as the board may prescribe;
 - (E) All activities undertaken with funds received shall comply with all applicable federal, state, and county statutes and ordinances;
 - (F) The applicant shall indemnify and save harmless the State of Hawaii and its officers, agents, and employees from and against any and all claims arising out of or resulting from activities carried out or projects undertaken with funds provided hereunder, and procure sufficient insurance to provide this indemnification if requested to do so by the department;
 - (G) The applicant shall make available to the board all records the applicant may have relating to the project, to allow the board to monitor the applicant's compliance with the purpose of this chapter; and
 - (H) The applicant, to the satisfaction of the board, shall establish that sufficient funds are available for the completion of the project for the purpose for which the grant is awarded; and
- (2) A venture capital program. The board shall adopt rules pursuant to chapter 91 to provide conditions and qualifications for venture capital investments in eligible Hawaii projects. The program may include a written agreement between the borrower and the board, as the representative of the State, that as consideration for the venture capital investment made under this part, the borrower shall share any royalties, licenses, titles, rights, or any other monetary benefits that may accrue to the borrower pursuant to terms and conditions established by the board by rule pursuant to chapter 91. Venture capital investments may be made on such terms and conditions as the board shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of this part. [L 2000, c 285, pt of §2]

" **[§201-114] Inspection of premises and records.** The board shall have the right to inspect, at reasonable hours, the plant, physical facilities, equipment, premises, books, and records of any applicant in connection with the processing of a grant to the applicant. [L 2000, c 285, pt of §2]