

# S.B. NO. 2856

JAN 23 2020

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## A BILL FOR AN ACT

RELATING TO THE BROWNFIELDS CLEANUP REVOLVING LOAN FUND.

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

1           SECTION 1. The Hawaii brownfields cleanup revolving loan  
2 fund was capitalized with funds from a United States  
3 Environmental Protection Agency brownfields revolving loan fund  
4 grant. In 2012, the grant was closed when all grant funds had  
5 been expended for cleanup loans, and a closeout agreement was  
6 executed between the United States Environmental Protection  
7 Agency and the department of business, economic development, and  
8 tourism. Under the closeout agreement, revolving loan funds may  
9 be used for loans and sub-grants to eligible entities for  
10 brownfields site assessment activities, sampling, and related  
11 activities in addition to cleanup activities. The existing loan  
12 fund statutory authority strictly limits use of revolving loan  
13 funds to loans and cleanup activities.

14           The legislature finds that expanding the loan fund  
15 authority to enable sub-grants for cleanups, environmental site  
16 assessments, and related activities, in conformance with the  
17 closeout agreement, will allow for greater use of the grant  
18 funds for eligible brownfields projects and facilitate

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1 redevelopment of lands that are underutilized due to perceived  
2 or real contamination.

3 SECTION 2. Section 201-18, Hawaii Revised Statutes, is  
4 amended by amending subsections (b) and (c) to read as follows:

5 "(b) Moneys in the brownfields cleanup revolving loan fund  
6 shall be used to provide low interest loans or other authorized  
7 financial assistance to eligible public, private, and nonprofit  
8 borrowers for brownfields site assessments, cleanup activities  
9 of contaminated sites, and site monitoring activities necessary  
10 to determine the effectiveness of a cleanup. Moneys in the  
11 brownfields cleanup revolving loan fund may also be used to  
12 provide grants to eligible public and nonprofit entities for  
13 brownfields site assessments, cleanup activities of contaminated  
14 sites, and site monitoring activities necessary to determine the  
15 effectiveness of a cleanup.

16 All environmental site assessments and response activities  
17 and entities receiving funding shall be subject to the  
18 eligibility requirements of, and conducted in accordance with  
19 the Comprehensive Environmental Response, Compensation, and  
20 Liability Act of 1980, P.L. 96-510 (42 U.S.C. §§9601-9675), as  
21 amended, and shall be consistent with the National Oil and  
22 Hazardous Substances Pollution Contingency Plan at 40 Code of

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1 Federal Regulations part 300. Moneys from the fund may be used  
2 to cover administrative and legal costs of fund management and  
3 site management associated with individual loans, to include  
4 personnel, services, materials, equipment, and travel for the  
5 purposes of this section; provided that the moneys used for  
6 these purposes shall not exceed the amounts allowed by the  
7 United States Environmental Protection Agency's Brownfields  
8 ~~[Cleanup Revolving Loan Fund Pilot]~~ Program[-] grant guidance,  
9 as amended.

10 (c) The fund shall be administered by the department of  
11 business, economic development, and tourism. Appropriations or  
12 authorizations from the fund shall be expended by the  
13 department. The department may award and disburse funds from  
14 the loan fund in the form of grants to eligible public or  
15 nonprofit entities for brownfields site assessments or cleanup  
16 and related activities. At a minimum, the grant applicant must  
17 show that:

- 18 (1) The applicant has not caused or contributed to  
19 contamination at the site where funds will be used;  
20 (2) The project is ready to proceed upon grant award and  
21 has a realistic plan for completion of activities to  
22 be funded;



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1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: MM N. M.

6

BY REQUEST

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**Report Title:**

Brownfields Cleanup Revolving Loan Fund

**Description:**

Enables use of funds for environmental site assessments and for sub-grants to eligible entities for assessment and cleanup of brownfields sites.

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

JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO THE BROWNFIELDS CLEANUP REVOLVING LOAN FUND.

PURPOSE: Amend the statutory authority for the revolving loan fund to expand the use of funds for brownfields environmental site assessments and sub-grants to eligible public and nonprofit entities.

MEANS: Amend section 201-18(b) and (c), Hawaii Revised Statutes.

JUSTIFICATION: The Department of Business, Economic Development, and Tourism (DBEDT) received a grant of \$2,000,000 from the U.S. Environmental Protection Agency (EPA) to establish and capitalize a brownfields cleanup revolving loan program to clean up contaminated sites. In 2012, the grant was closed when all grant funds had been expended for cleanup loans, and a closeout agreement was executed between the EPA and the department. All program revenue, such as loan repayments and fees, received by the revolving loan fund from loans capitalized by EPA grant funds and subsequent loan activity are not subject to federal grant requirements. However, under the EPA closeout agreement, the program revenue must be used for brownfields activities and comply with EPA site and applicant eligibility requirements. The EPA closeout agreement allows the program revenue to be used for both loans and sub-grants to eligible entities for brownfields site assessment activities, sampling, and related activities, in addition to cleanup activities. The existing loan fund statutory authority strictly limits use of revolving loan funds to loans and cleanup activities as allowed under the original grant award terms. The proposed amendment

would align the use of revolving loan funds with the provisions of the more-flexible EPA closeout agreement.

Impact on the public: The public will benefit from brownfields site assessments and cleanups that will facilitate the restoration and redevelopment of contaminated sites.

Impact on the department and other agencies: The amendment will allow DBEDT to disburse funds through sub-grants as well as loans to eligible entities. This will enable greater use of the funds for brownfields redevelopment.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: BED-144 PL.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.