



GOV. MSG. NO. 1293

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 6, 2021

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith SB140 SD2 HD2 CD1, without my approval and with the statement of objections relating to the measure.

SB140 SD2 HD2 CD1

RELATING TO COMMUNITY
DEVELOPMENT.

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2021

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 140

Honorable Members
Thirty-First Legislature
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, Senate Bill No. 140, entitled "A Bill for an Act Relating to Community Development."

The purpose of this bill is to establish the transit-oriented development zone improvement board to develop and implement a transit-oriented development zone improvement program to foster community development by strategically investing in public facilities.

This bill is objectionable because the bill does not provide for placement of the transit-oriented development zone improvement board within a principal department. Pursuant to Section 6 of Article V of the Hawai'i State Constitution, the transit-oriented development zone improvement board must be placed within a principal department. Consequently, this bill would establish the new board in violation of the organizational placement requirement of Section 6 of Article V of the Hawai'i State Constitution.

For the foregoing reason, I am returning Senate Bill No. 140 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "David Y. Ige", with a stylized flourish at the end.

DAVID Y. IGE
Governor of Hawai'i

A BILL FOR AN ACT

RELATING TO COMMUNITY DEVELOPMENT.

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

1 SECTION 1. The legislature finds that the construction and
2 installation of certain public facilities are necessary and
3 desirable to facilitate the renewal and redevelopment of areas
4 designated for transit-oriented development by the State and the
5 counties. Transit-oriented development is a powerful tool that
6 can ultimately deliver a wide range of social, environmental,
7 and economic benefits. Transit-oriented development promotes
8 development patterns that support quality of life; preserves the
9 natural environment; provides a range of housing choices for
10 residents; and encourages walking, biking, and mass transit.

11 The State plays an important role in overcoming barriers to
12 transit-oriented development, including encouraging needed
13 investments in regional public facilities such as roads, sewers,
14 and storm water management systems. This Act is intended to
15 move current transit-oriented development planning efforts
16 forward into structures that benefit the community.

17 The legislature further finds that, currently, no single
18 entity has the authority to redevelop the State's assets along a



1 transit corridor in the best interest of the State. This Act
2 will enable the delivery of public facilities and infrastructure
3 needed to support development on lands within designated
4 transit-oriented development zones.

5 The purpose of this Act is to establish the transit-
6 oriented development zone improvement board to develop a
7 transit-oriented development zone improvement program to foster
8 community development by strategically investing in public
9 facilities.

10 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is
11 amended by adding a new part to be appropriately designated and
12 to read as follows:

13 **"PART TRANSIT-ORIENTED DEVELOPMENT ZONE IMPROVEMENT PROGRAM**

14 **§206E-A Definitions.** As used in this part:

15 "Board" means the transit-oriented development zone
16 improvement board established by section 206E-B.

17 "Program" means the transit-oriented development zone
18 improvement program developed by the board pursuant to section
19 206E-D.

20 "Transit-oriented development zone" means the parcels of
21 land within county-designated transit-oriented development



1 zones, or within a one-half mile radius around proposed or
2 existing transit stations if the county has not designated
3 transit-oriented development zones, as determined by the board,
4 taking into account proximity, walkability, adopted county
5 plans, and other relevant factors; provided that in a county
6 with a population in excess of five hundred thousand a transit-
7 oriented development zone shall include a rail station or a
8 planned rail station. "Transit-oriented development zone"
9 includes all parcels of land on which any portion of said
10 parcels are located within that one-half mile radius.

11 **§206E-B Transit-oriented development zone improvement**
12 **board; established.** (a) There is established the transit-
13 oriented development zone improvement board to govern the
14 program.

15 (b) The governor shall appoint the following members of
16 the board, who shall each serve for a term of four years;
17 provided that the governor shall provide for staggered terms of
18 the initially appointed voting members so that the initial terms
19 of two members selected by lot shall be for two years, the
20 initial term of one member selected by lot shall be for three



1 years, and the initial terms of the remaining member shall be
2 for four years:

- 3 (1) One at-large member selected from a list of three
4 nominees submitted by the president of the senate;
- 5 (2) One at-large member selected from a list of three
6 nominees submitted by the speaker of the house of
7 representatives;
- 8 (3) One at-large member;
- 9 (4) One cultural specialist;
- 10 (5) The director of the planning department of the county
11 in which the district is located, or the director's
12 designee, who shall serve in an ex-officio, non-voting
13 capacity; and
- 14 (6) The director of finance, director of the office of
15 planning, and executive director of the Hawaii housing
16 finance and development corporation, or their
17 respective designees, who shall all serve in ex-
18 officio, voting capacities.

19 In the event of a vacancy, a member shall be appointed to
20 fill the vacancy in the same manner as the original appointment



1 within thirty days of the vacancy or within ten days of the
2 senate's rejection of a previous appointment, as applicable.

3 The terms of the director of finance, director of
4 transportation, county directors of planning and permitting,
5 chairperson of the Hawaiian homes commission, director of the
6 office of planning, and executive director of the Hawaii housing
7 finance and development corporation, or their respective
8 designees, shall run concurrently with each official's term of
9 office.

10 The governor may remove or suspend for cause any member
11 after due notice and public hearing.

12 Notwithstanding section 92-15, a majority of all eligible
13 voting members as specified in this subsection shall constitute
14 a quorum to do business, and the concurrence of a majority of
15 all eligible voting members as specified in this subsection
16 shall be necessary to make any action of the board valid. All
17 members shall continue in office until their respective
18 successors have been appointed and qualified. Except as herein
19 provided, no member appointed under this subsection shall be an
20 officer or employee of the State or its political subdivisions.



1 §206E-C Transit-oriented development zone improvement

2 board; powers; generally. Except as otherwise limited by this
3 part, the board may:

4 (1) Sue and be sued;

5 (2) Have a seal and alter the same at pleasure;

6 (3) Make and execute contracts and all other instruments
7 necessary or convenient for the exercise of its powers
8 and functions under this part;

9 (4) Make rules with respect to its projects, operations,
10 properties, and facilities, which rules shall be in
11 conformance with chapter 91;

12 (5) Prepare or cause to be prepared a development plan for
13 all transit-oriented development zones;

14 (6) Acquire, reacquire, or contract to acquire or
15 reacquire by grant or purchase real, personal, or
16 mixed property or any interest therein; to own, hold,
17 clear, improve, and rehabilitate, and to sell, assign,
18 exchange, transfer, convey, lease, or otherwise
19 dispose of or encumber the same;

20 (7) Acquire or reacquire by condemnation real, personal,
21 or mixed property or any interest therein for public



1 facilities, including but not limited to streets,
2 sidewalks, parks, schools, and other public
3 improvements;

4 (8) By itself or in partnership with qualified persons,
5 acquire, reacquire, construct, reconstruct,
6 rehabilitate, improve, alter, or repair or provide for
7 the construction, reconstruction, improvement,
8 alteration, or repair of any project; own, hold, sell,
9 assign, transfer, convey, exchange, lease, or
10 otherwise dispose of or encumber any project;

11 (9) Arrange or contract for the planning, replanning,
12 opening, grading, or closing of streets, roads,
13 roadways, alleys, or other places, or for the
14 furnishing of facilities or for the acquisition of
15 property or property rights or for the furnishing of
16 property or services in connection with a project;

17 (10) Prepare or cause to be prepared plans, specifications,
18 designs, and estimates of costs for the construction,
19 reconstruction, rehabilitation, improvement,
20 alteration, or repair of any project, and, from time



1 to time, modify the plans, specifications, designs, or
2 estimates of any project;

3 (11) Provide advisory, consultative, training, and
4 educational services, technical assistance, and advice
5 to any person, partnership, or corporation, either
6 public or private, to carry out the purposes of this
7 part, and engage the services of consultants on a
8 contractual basis for rendering professional and
9 technical assistance and advice;

10 (12) Procure insurance against any loss in connection with
11 its property and other assets and operations in
12 amounts and from insurers as it deems desirable;

13 (13) Contract for and accept gifts or grants in any form
14 from any public agency or from any other source;

15 (14) Do any and all things necessary to carry out its
16 purposes and exercise the powers given and granted in
17 this part; and

18 (15) Establish and administer the transit-oriented
19 development zones and program.

20 **§206E-D Transit-oriented development zone improvement**
21 **program. (a) The board shall develop a transit-oriented**



1 development zone improvement program to identify necessary
2 transit-oriented development zone public facilities within the
3 transit-oriented development zones.

4 (b) Whenever the board shall determine to undertake, or
5 cause to be undertaken, any public facility as part of the
6 program, the cost of providing the public facilities may be
7 assessed against the real property in the transit-oriented
8 development zone specially benefiting from the public
9 facilities. The board shall determine the areas of the transit-
10 oriented development zone that will benefit from the public
11 facilities to be undertaken and, if less than the entire
12 transit-oriented development zone benefits, the board may
13 establish assessment areas within the transit-oriented
14 development zone. The board may issue and sell bonds in amounts
15 as may be authorized by the legislature to provide funds to
16 finance the public facilities. The board may fix the
17 assessments against real property specially benefited. All
18 assessments made pursuant to this section shall be a statutory
19 lien against each lot or parcel of land assessed from the date
20 of the notice declaring the assessment until paid, and the lien
21 shall have priority over all other liens except the lien of



1 property taxes. As between liens of assessments, the earlier
2 lien shall be superior to the later lien.

3 (c) Bonds issued to provide funds to finance transit-
4 oriented development zone public facilities shall be secured
5 solely by the real properties benefited or improved, the
6 assessments thereon, or the revenues derived from the program
7 for which the bonds are issued, including reserve accounts and
8 earnings thereon, insurance proceeds, and other revenues, or any
9 combination thereof. The bonds may be additionally secured by
10 the pledge or assignment of loans and other agreements or any
11 note or other undertaking, obligation, or property held by the
12 board. Bonds issued pursuant to this section and the income
13 therefrom shall be exempt from all state and county taxation,
14 except transfer and estate taxes. The bonds shall be issued
15 according and subject to rules adopted pursuant to this section.

16 (d) Notwithstanding any other law to the contrary, in
17 assessing real property for transit-oriented development zone
18 public facilities, the board shall assess the real property
19 within an assessment area according to the special benefits
20 conferred upon the real property by the public facilities.
21 These methods may include assessment on a frontage basis or



1 according to the area of real property within an assessment area
2 or any other assessment method that assesses the real property
3 according to the special benefit conferred, or any combination
4 thereof. No assessment levied against real property specially
5 benefited as provided by this part shall constitute a tax on
6 real property within the meanings of any constitutional or
7 statutory provisions.

8 (e) The board shall adopt rules pursuant to chapter 91 and
9 may amend the rules from time to time, providing for the method
10 of undertaking and financing transit-oriented development zone
11 public facilities in an assessment area or an entire transit-
12 oriented development zone. The rules adopted pursuant to this
13 section shall include but are not limited to:

- 14 (1) The methods by which the board shall establish
15 assessment areas;
- 16 (2) The method of assessment of real properties specially
17 benefited;
- 18 (3) The costs to be borne by the board, the county in
19 which the transit-oriented development zone public
20 facilities are situated, and the property owners;



(4) The procedures before the board relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices;

(5) Provisions relating to assessments;

(6) Provisions relating to financing, including bonds, revolving funds, advances from available funds, special funds for payment of bonds, payment of principal and interest, and sale and use of the bonds;

(7) Provisions relating to funds and refunding of outstanding debts;

(8) Provisions relating to limitations on time to sue; and

(9) Other related provisions.

(f) Notwithstanding any other provisions to the contrary, the board may, in its discretion, enter into any agreement with the county in which the transit-oriented development zone public facilities are located, to implement all or part of the purposes of this section.

(g) All sums collected under this section shall be deposited into the Hawaii community development revolving fund established by section 206E-16; provided that notwithstanding



1 section 206E-16, all moneys collected on account of assessments
2 and interest thereon for any specific transit-oriented
3 development zone public facilities financed by the issuance of
4 bonds shall be set apart in a separate special fund and applied
5 solely to:

6 (1) The payment of the principal and interest on these
7 bonds and the cost of administering, operating, and
8 maintaining the program;

9 (2) The establishment of reserves; and

10 (3) Other purposes as may be authorized in the proceedings
11 providing for the issuance of the bonds.

12 If any surplus remains in any special fund after the payment of
13 the bonds chargeable against the fund, it shall be credited to
14 and become a part of the Hawaii community development revolving
15 fund. Moneys in the Hawaii community development revolving fund
16 may be used to make up any deficiencies in the special fund.

17 (h) The transit-oriented development zone public
18 facilities to be financed through bonds issued by the board may
19 be dedicated to the county in which the public facilities are to
20 be located. The board shall ensure that the public facilities
21 are designed and constructed to meet county requirements and



1 enter into agreement with the county for dedication of the
2 public facilities.

3 (i) Notwithstanding any law to the contrary, whenever as
4 part of a program, it becomes necessary to remove, relocate,
5 replace, or reconstruct public utility facilities, the board
6 shall establish by rule the allocation of cost between the
7 board, the affected public utilities, and the properties that
8 may specially benefit from the improvement, if any. In
9 determining the allocation of cost, the board shall consider the
10 cost allocation policies for improvement districts established
11 by the county in which the removal, relocation, replacement, or
12 reconstruction is to take place."

13 SECTION 3. In codifying the new sections added by section
14 2 of this Act, the revisor of statutes shall substitute
15 appropriate section numbers for the letters used in designating
16 the new sections in this Act.

17 SECTION 4. This Act shall take effect on July 1, 2021.

APPROVED this day of , 2021


GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawaii'i, Regular Session of 2021.


President of the Senate


Clerk of the Senate

SB No. 140, SD 2, HD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.

A stylized, handwritten signature in black ink, appearing to read 'Scott K. Saiki'.

Scott K. Saiki
Speaker
House of Representatives

A handwritten signature in black ink, appearing to read 'Brian L. Takeshita'.

Brian L. Takeshita
Chief Clerk
House of Representatives