
A BILL FOR AN ACT

RELATING TO CORRECTIONAL FACILITIES AUTHORITY.

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

1 SECTION 1. Chapter 353, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART CORRECTIONS FACILITIES AUTHORITY**

5 **§353-A Definitions.** As used in this part, unless the
6 context clearly requires otherwise:

7 "Authority" means the corrections facilities authority
8 established by section 353-B.

9 "Facilities" includes community correctional centers,
10 correctional facilities, and office and maintenance buildings.

11 "Project" means the development and construction of new
12 facilities, including infrastructure; access and other support
13 for new facilities; major renovation of facilities;
14 public-private partnership projects; new capital improvement
15 projects funded by the legislature for completion by the
16 authority; acquisition of real property, personal property, or



1 mixed property for new facilities; and planning, development and
2 leasing of land or facilities to private partners.

3 **§353-B Corrections facilities authority; established.** (a)

4 There is established the corrections facilities authority, which
5 shall be a body corporate and a public instrumentality of the
6 State. The authority shall be placed within the department for
7 administrative purposes only.

8 (b) The authority shall employ an executive director who
9 shall be exempt from chapters 76 and 89. The governor shall
10 appoint the executive director in the manner prescribed in
11 section 26-34; provided that the executive director's term shall
12 be for six years, which shall commence on the day the senate
13 advises and consents to the executive director's nomination.
14 The executive director shall not be limited in the number of
15 terms served. If a vacancy occurs during a term, the governor
16 shall appoint an interim executive director whose appointment
17 shall expire if the senate does not advise and consent to the
18 nomination at the next regular session of the legislature after
19 the vacancy occurs. The salary of the executive director shall
20 be set by the corrections facilities board and the executive



1 director shall be included in any benefit program generally
2 applicable to the officers and employees of the State.

3 (c) The executive director shall:

4 (1) Serve as the authority's chief executive officer and
5 chief procurement officer;

6 (2) Be responsible for carrying out the purposes of the
7 authority; and

8 (3) Serve on a full-time basis.

9 **§353-C Powers; generally.** (a) Except as otherwise
10 limited by this chapter, the authority shall be responsible for
11 all public corrections development, planning, and construction
12 related to capital improvement projects assigned by the
13 legislature or governor.

14 (b) The authority shall comply with chapter 103D.

15 (c) Except as otherwise limited by this chapter, the
16 authority may also:

17 (1) Have a seal and alter the same at its pleasure;

18 (2) Subject to subsection (b), make and execute contracts
19 and all other instruments necessary or convenient for
20 the exercise of its powers and functions under this
21 part;



- 1 (3) Make and alter bylaws for its organization and
2 internal management;
- 3 (4) Adopt rules pursuant to chapter 91 with respect to its
4 projects, operations, properties, and facilities,
5 including qualifications for persons and entities
6 wishing to enter into a public-private partnership
7 with the authority, as permitted in paragraph (7);
- 8 (5) Acquire or contract to acquire by grant or purchase
9 real, personal, or mixed property or any interest
10 therein; to clear, improve, and rehabilitate and to
11 sell, assign, exchange, transfer, convey, lease, or
12 otherwise dispose of or encumber the same;
- 13 (6) Acquire property by condemnation pursuant to
14 chapter 101;
- 15 (7) Enter into partnerships with qualified persons,
16 including public-private partnerships, as defined in
17 the authority's rules, to acquire, construct,
18 reconstruct, rehabilitate, improve, alter, or provide
19 for the construction, reconstruction, improvement, or
20 alteration of any project; and sell, assign, transfer,
21 convey, exchange, lease, or otherwise dispose of or



1 encumber any project; and in the case of the sale of
2 any project, accept a purchase money mortgage in
3 connection therewith;

4 (8) Grant options to purchase any project or to renew any
5 lease entered into by it in connection with any of its
6 projects, on terms and conditions as it deems
7 advisable;

8 (9) Prepare or cause to be prepared plans, specifications,
9 designs, and estimates of costs for the construction,
10 reconstruction, rehabilitation, improvement, or
11 alteration of any project, and from time to time to
12 modify the plans, specifications, designs, or
13 estimates;

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

17 (11) Apply for and accept gifts or grants in any form from
18 any public agency or from any other source, including
19 gifts or grants from private individuals and private
20 entities;



1 (12) Borrow money or procure loan guarantees from the
2 federal government for or in aid of any project the
3 authority is authorized to undertake pursuant to this
4 chapter. Additionally, in connection with borrowing
5 or procurement of loan guarantees, the authority:
6 (A) Shall comply with conditions required by the
7 federal government pursuant to applicable
8 regulation or required in any contract for
9 federal assistance;
10 (B) Shall repay indebtedness incurred pursuant to
11 this section, including any interest thereon;
12 (C) May execute loan and security agreements and
13 related contracts with the federal government;
14 (D) May issue bonds pledging revenues, assessments,
15 or other taxes as security for indebtedness
16 incurred pursuant to this section; and
17 (E) May enter into financing agreements as that term
18 is defined in section 37D-1;
19 (13) Appoint or retain by contract one or more attorneys
20 who are independent of the attorney general to provide
21 legal services solely in cases of negotiations in



1 which the attorney general lacks the sufficient
2 expertise; provided that the independent attorney
3 shall consult and work in conjunction with the
4 designated deputy attorney general;

5 (14) Use the department of human resources development to
6 recruit, hire, and retain exempt employees,
7 architects, engineers, existing civil service
8 positions, and other technical positions for the
9 development, planning, and construction related to
10 capital improvement projects; and

11 (15) Do any and all things necessary to carry out its
12 purposes and exercise the powers given and granted in
13 this part.

14 **§353-D Corrections facilities authority board.** (a) There
15 is established the corrections facilities authority board, which
16 shall head and oversee the authority.

17 (b) The board shall consist of five voting members. The
18 members shall:

19 (1) Be appointed by the governor pursuant to
20 section 26-34;

21 (2) Have an interest in public corrections facilities;



1 (3) Include one member actively or previously engaged in
2 the construction industry for at least five years; and

3 (4) Serve without compensation but may be reimbursed for
4 expenses, including travel expenses, necessary for the
5 performance of their duties.

6 (c) The board shall be responsible for:

7 (1) All matters related to the projects the authority is
8 authorized and responsible for initiating and
9 completing under this part, including preferred
10 strategies to complete those projects; and

11 (2) Evaluating the performance of the authority's
12 executive director on an annual basis.

13 (d) The board shall select a chairperson by a majority
14 vote of its voting members. A majority of the voting members
15 serving on the board shall constitute a quorum to conduct
16 business. The concurrence of the majority of the voting members
17 serving on the board shall be necessary to make any action of
18 the board valid.

19 (e) The board may form workgroups and subcommittees that
20 include individuals who are not board members, to:



1 (1) Obtain resource information from construction and
2 corrections professionals and other individuals as
3 deemed necessary by the board;

4 (2) Make recommendations to the board; and

5 (3) Perform other functions as deemed necessary by the
6 board to fulfill its duties and responsibilities.

7 Two or more board members, but less than a quorum, may
8 discuss matters relating to official board business in the
9 course of their participation in a workgroup or subcommittee,
10 and these discussions shall be a permitted interaction as
11 provided for in section 92-2.5; provided that all other
12 provisions of chapter 92 shall apply.

13 **§353-E Use of public lands; acquisition of state lands.**

14 (a) If state lands, other than public lands as defined in
15 section 171-2, under the control and management of another
16 department or agency are required by the authority for purposes
17 of this chapter, the department or agency having control and
18 management of the required lands, upon a request by the
19 authority and with the approval of the governor, shall convey
20 title or lease those lands to the authority upon terms and
21 conditions as may be agreed to by the parties; provided that at



1 the request of the authority, the department shall transfer any
2 land to which it holds title to the authority.

3 (b) If public land set aside to a department or agency
4 pursuant to section 171-11, is required by the authority for
5 purposes of this chapter, the authority shall submit a request
6 to the governor to withdraw the set aside and to re-set-aside
7 the land to the authority pursuant to section 171-11.

8 (c) Notwithstanding the foregoing and section 353-C(c), no
9 lands shall be conveyed or leased to the authority as provided
10 in this section if the conveyance or lease would impair any
11 covenant between the State or any county or any department or
12 board thereof and the holders of bonds issued by the State or
13 county, department, or board.

14 (d) When public lands transferred to the authority are no
15 longer needed for corrections facilities purposes, title to
16 those lands shall be transferred to the department of land and
17 natural resources and the lands shall be reclassified as public
18 lands.

19 **§353-F Corrections facilities special fund.** (a) There is
20 established within the state treasury a special fund to be known



1 as the corrections facilities special fund into which shall be
2 deposited:

3 (1) All moneys the authority receives, including funds
4 appropriated or transferred by the legislature for
5 deposit into the special fund;

6 (2) Funds collected shall be deposited into the
7 appropriate subaccount established pursuant to
8 subsection (b);

9 (3) Any moneys received by the department in the form of a
10 grant, gift, endowment, or donation for the
11 development, planning, or construction of new
12 corrections facilities or major renovations of
13 corrections facilities; and

14 (4) All other moneys received by the authority and not
15 deposited into a trust fund or trust account,
16 including unrestricted grants, gifts, and donations;
17 proceeds from sales of property; rents and other
18 receipts from leases, rights of entry, and the like;
19 and interest, refunds, and other receipts and
20 payments.



1 (b) The authority may establish and appropriately name
2 subaccounts within the corrections facilities special fund to
3 accept deposits that are required to be expended for a specified
4 purpose or to ensure compliance with the Internal Revenue Code,
5 as amended.

6 (c) The corrections facilities special fund shall be
7 administered by the authority and used to fund any corrections
8 development, planning, or construction project within the
9 jurisdiction of the authority.

10 (d) Subject to chapter 84, any other law to the contrary
11 notwithstanding, the governor may authorize expenditures from
12 the corrections facilities special fund of any donation, grant,
13 bequest, and devise of money from any private institution,
14 person, firm, or corporation for the purposes of funding the
15 salaries of the executive director and any officers, agents, and
16 employees of the authority. If all or any portion of any salary
17 of the executive director or any officer, agent, or employee of
18 the authority is funded pursuant to this subsection, the
19 authority shall submit a report to the legislature detailing the
20 use of any funds authorized under this subsection no later than



1 twenty days prior to the convening of the next regular session
2 following the expenditure authorization.

3 (e) The authority shall submit to the director of finance
4 a report that shall be prepared in the form prescribed by the
5 director of finance and shall identify the total amount of funds
6 in the corrections facilities special fund that will carry over
7 to the next fiscal year. The authority shall submit the report
8 to the director of finance within ninety days of the close of
9 each fiscal year. A copy of the information contained in the
10 report shall be included within the authority's report to the
11 legislature pursuant to section 353-G.

12 **§353-G Annual report.** At least twenty days prior to the
13 convening of each regular session, the authority shall submit to
14 the governor, director, and legislature, a complete and detailed
15 report of its activities during the prior fiscal year."

16 SECTION 2. The corrections facilities authority shall
17 apply for grants and loans from the United States Department of
18 Agriculture's Community Facilities Direct Loan and Grant Program
19 to fund the development of a correctional facility or community
20 correctional center.



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

4 SECTION 4. In codifying the new sections added by section
5 1 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Corrections Facilities Authority; DCR; Community Facilities
Direct Loan and Grant Program

Description:

Establishes the Correction Facilities Authority to be responsible for all public corrections development, planning, and construction related to capital improvement projects. Requires the Correction Facilities Authority to apply for a loan or grant from the United States Department of Agriculture's Community Facilities Direct Loan and Grant Program. Effective 7/1/3000. (HD1)

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