

JAN 17 2025

A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1 SECTION 1. The legislature finds that the State has been
2 struggling to expedite project delivery, especially for projects
3 that increase port resilience and operational efficiency. The
4 existing law authorizes the harbors division of the department
5 of transportation to enter into capital advancement contracts
6 with private parties for any public improvement to or
7 construction of a state port facility when the director of
8 transportation determines that a capital advancement contract
9 promotes the best interest of the State.

10 The legislature further finds that the current cap of
11 \$2,000,000 per contract or aggregate \$5,000,000 per party limits
12 the scope, type, and number of projects that can be completed
13 under a capital advancement contract and therefore needs to be
14 increased to facilitate improved project delivery.

15 Accordingly, the purpose of this Act is to increase the
16 current limits on capital advancement contracts.



SECTION 2. Section 266-19.5, Hawaii Revised Statutes, is amended to read as follows:

"§266-19.5 Private financing of harbor improvements. (a)

Notwithstanding any law to the contrary, the department of transportation may enter into a capital advancement contract with a private party for any public improvement to or construction of a state harbor, commercial harbor, roadstead, or other waterfront improvement belonging to or controlled by the State, if the director of transportation determines that a capital advancement contract promotes the best interest of the State by finding that:

(1) Private development is likely to be less costly than any other type of contract;

(2) Private development provides needed public improvements on a significantly more timely basis; or

(3) Public financing for the public improvements is not available on a timely basis.

(b) A capital advancement contract under subsection (a) may be financed by legislative appropriation to reimburse the private party or by credit against the private party's future rental or tariff payments to the State; provided that the terms



1 of the contract shall ensure that the State benefits financially
2 from the arrangement and that public use of the facility is
3 maintained; provided further that capital advancement contracts
4 under this section shall not be general obligations of the State
5 for which the full faith and credit of the department is pledged
6 and the legislature shall have no obligation to appropriate
7 funds to reimburse a private party to a capital advancement
8 contract.

9 (c) A capital advancement contract under subsection (a)
10 shall be subject to the requirements of chapters 103 and 103D
11 and be subject to the approval of the department of
12 transportation; provided that all related transactions shall be
13 subject to state audit.

14 (d) The department of transportation may execute capital
15 advancement contracts pursuant to subsection (a) with a total
16 contract value of [~~\$2,000,000~~] \$ _____ or less without
17 legislative approval. [~~If the total value of a capital~~
18 ~~advancement contract pursuant to subsection (a) is greater than~~
19 ~~\$2,000,000 then the department of transportation shall obtain~~
20 ~~legislative approval in the form of the adoption of a concurrent~~
21 ~~resolution affirming the purpose, project, and contract issuance~~



1 ~~prior to executing the capital advancement contract.]~~ The total
2 aggregate value of all capital advancement contracts entered
3 into by the department pursuant to this section shall not exceed
4 ~~[\$5,000,000]~~ \$ _____ in any ~~calendar~~ fiscal year.

5 (e) The department shall submit a report to the
6 legislature of all executed capital advancement contracts for
7 the previous twelve-month period from December 1 to November 30
8 no later than twenty days prior to the convening of the regular
9 session of 2026 and each regular session thereafter.

10 ~~[(e)]~~ (f) For the purposes of this section:

11 "Capital advancement contract" means an agreement between
12 the department of transportation and a private party whereby the
13 private party agrees to furnish capital, labor, or materials for
14 a public improvement to or construction of a state harbor,
15 commercial harbor, roadstead, or other waterfront improvement
16 belonging to or controlled by the State and in return for which
17 the private party may be reimbursed in a manner to be determined
18 by the department.

19 "Total value" includes any contract extension, project
20 redesign, add-ons, or any other occurrence, act, or material
21 cost that may increase the cost of the contracted project."



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 on July 1, 2025.

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INTRODUCED BY: *Francis R. Montgomery*



S.B. NO. 1076

Report Title:

DOT; Harbor Improvements; Capital Advancement Contracts; Reports

Description:

Increases the caps for the total contract value for any one Capital Advancement Contract (CAC) and the total aggregate value of CACs in a fiscal year entered into by the Department of Transportation with private parties for harbor improvements. Requires reports to the Legislature from the DOT.

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