

ACT 184

S.B. NO. 2702

A Bill for an Act Relating to the Kalaeloa Community Development District.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Barbers Point Naval Air Station was officially closed on July 1, 1999, and the Navy is in the process of conveying two thousand one hundred fifty acres of this property, which has been named the “Kalaeloa community development district”, to various agencies of the State and of the city and county of Honolulu. Development of this district is currently the responsibility of the Barbers Point Naval Air Station redevelopment commission.

The Barbers Point lands present unique opportunities for economic development and job creation for the area. The purpose of this Act is to transfer the responsibility for redeveloping this property from the Barbers Point Naval Air Station redevelopment commission to the Hawaii community development authority to enhance the prospects for success by:

- (1) Designating the Hawaii community development authority as the local redevelopment authority for the Barbers Point Naval Air Station surplus lands that are being conveyed to the State and the city and county of Honolulu under the base realignment and closure process;
- (2) Authorizing and empowering the Hawaii community development authority to redevelop the Barbers Point lands in accordance with the reuse plan for the Barbers Point Naval Air Station approved by the governor; and
- (3) Providing economic development incentives to improve the Hawaii community development authority’s prospects of attracting private sector investment in the Kalaeloa community development district.

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

“PART . KALAELOA COMMUNITY DEVELOPMENT DISTRICT

§206E-A Barbers Point Naval Air Station redevelopment; power to redevelop established. (a) The Hawaii community development authority shall be the designated agency of the State to implement this part.

(b) The authority shall act as the local redevelopment authority to facilitate the redevelopment of Barbers Point Naval Air Station in accordance with the Barbers Point Naval Air Station community reuse plan. In addition to any other duties that the authority may have pursuant to this chapter, the authority’s duties shall include but not be limited to:

- (1) Coordinating with the Navy and other entities during the conveyance of properties and conducting remediation activities for the Barbers Point Naval Air Station community reuse plan;
- (2) Assisting landholders designated by the plan to market their properties and process conveyance requests;

- (3) Working with the Navy and others to ensure that infrastructure support is provided to the existing developed area, referred to as the “down-town area”, and other federally retained areas;
- (4) Developing the infrastructure necessary to support the implementation of the Barbers Point Naval Air Station community reuse plan; and
- (5) Providing, to the extent feasible, maximum opportunity for the reuse of surplus property by private enterprise or state and county government.

(c) Five additional voting members shall, except as otherwise provided in this subsection, be appointed to the authority by the governor to represent the Kalaeloa community development district. These members shall be considered in determining quorum and majority only on issues relating to the Kalaeloa community development district, and may vote only on issues relating to the Kalaeloa community development district. These members shall consist of:

- (1) The chairperson of the Hawaiian homes commission;
- (2) The director of the city and county of Honolulu department of planning and permitting;
- (3) Two members representing the surrounding community for a term pursuant to section 26-34, one of which shall be selected by the mayor of the city and county of Honolulu; and
- (4) One member who is a Hawaiian cultural specialist.

§206E-B Designation of the Kalaeloa community development district.

(a) The federal Department of Defense declared approximately two thousand one hundred fifty acres of land at the Barbers Point Naval Air Station to be surplus to its needs and under a base realignment is conveying these surplus lands to the various end users identified by the community reuse plan. The governor has approved and forwarded to the Navy the community reuse plan for these surplus lands.

(b) The legislature hereby designates these surplus lands as the “Kalaeloa community development district”.

§206E-C District established; boundaries. The Kalaeloa community development district is established. The district shall include that area within the boundaries described as follows: the eastern boundary begins at Geiger Gate and runs along East Hansen Road to the intersection with Essex Road until its termination at White Plains Beach Park, where it follows the eastern boundary of parcel 9-1-13:74 to the shoreline at the mean high water mark; the northern boundary begins at the eastern corner at the Geiger Road entry gate where it becomes Roosevelt Road and continues westward until its intersection with West Perimeter Road; the western boundary follows the West Perimeter Road until its termination and then follows the western border of parcel 9-1-13:30 to the shoreline at the mean high water mark; two parcels (9-1-13:01 and 9-1-13:09) lying west of West Perimeter Road toward its mauka end, and two parcels (9-1-31:28 and 9-1-31:47) lying west of West Perimeter Road on its makai end, all of which are physically separated from the western boundary by a storm water drainage canal, are also included; the southern boundary follows the shoreline at the mean high water mark from the western boundary of parcel 9-1-13:30 to the eastern boundary of White Plains Beach Park (9-1-13:74). All references to parcel numbers contained herein indicate the areas identified by such tax map key numbers as of March 18, 2002.

§206E-D Kalaeloa community development district; development guidance policies. The following development guidance policies shall generally govern the authority’s actions in the Kalaeloa community development district:

- (1) Development shall be in accordance with the community reuse plan, except as it conflicts with the Hawaii State Constitution and the Hawaii

- Revised Statutes, as they relate to the department of Hawaiian home lands;
- (2) With the approval of the governor and concurrence of the Navy, and in accordance with state law governing lands owned by the department of Hawaiian home lands, the authority, upon the concurrence of a majority of its voting members, may modify and make changes to the reuse plan to respond to changing conditions; provided that prior to amending the reuse plan the authority shall conduct a public hearing to inform the public of the proposed changes and receive public input;
 - (3) Development shall seek to promote economic development and employment opportunities by fostering diverse land uses and encouraging private sector investments that utilize the opportunities presented by the receipt of property from the base closure consistent with the needs of the public;
 - (4) The authority may engage in planning, design, and construction activities within and outside of the district; provided that activities outside of the district shall relate to infrastructure development, area-wide drainage improvements, roadways realignments and improvements, business and industrial relocation, and other activities the authority deems necessary to carry out redevelopment of the district and implement this chapter. Studies or coordinating activities may be undertaken by the authority in conjunction with the county and appropriate state agencies and may address facility systems, industrial relocation, and other activities;
 - (5) Planning, replanning, rehabilitation, development, redevelopment, and other preparation for reuse of Barbers Point Naval Air Station under this chapter are public uses and purposes for which public money may be spent and private property acquired;
 - (6) Hawaiian archaeological, historic, and cultural sites shall be preserved and protected. Endangered species of flora and fauna and significant military facilities shall be preserved to the extent feasible;
 - (7) Land use and redevelopment activities within the district shall be coordinated with and to the extent possible complement existing county and state policies, plans, and programs affecting the district; and
 - (8) Public facilities within the district shall be planned, located, and developed to support the redevelopment policies established by this chapter for the district, the reuse plan approved by the governor, and rules adopted pursuant to this chapter.

§206E-E Kalaeloa community development revolving fund. (a) There is established in the state treasury the Kalaeloa community development revolving fund, into which shall be deposited:

- (1) All revenues, income, and receipts of the authority for the Kalaeloa community development district, notwithstanding any other law to the contrary, including section 206E-16;
 - (2) Moneys directed, allocated, or disbursed to the Kalaeloa community development district from government agencies or private individuals or organizations, including grants, gifts, awards, donations, and assessments of landowners for costs to administer and operate the Kalaeloa community development district; and
 - (3) Moneys appropriated to the fund by the legislature.
- (b) Moneys in the Kalaeloa community development revolving fund shall be used for the purposes of this part.

(c) Investment earnings credited to the assets of the fund shall become part of the assets of the fund.

§206E-F Assessment for operating costs. (a) The authority shall have the power to assess all land users, except the federal government, for their fair share of the costs required to administer and operate the Kalaeloa community development district, which may include costs associated with staffing. Assessments shall be based on each landowner's proportionate share of the total acreage of the Kalaeloa Community Development District.

(b) The assessment shall be set by the authority annually, based upon the operating budget for the district, and adjusted for any actual expenditures made in the prior year in excess of the prior approved budget. The assessments shall be paid to the authority in semi-annual payments commencing thirty days after the beginning of the fiscal year.

(c) The authority may charge interest or other fees on assessment amounts not paid on a timely basis, and may withhold services or approval of governmental permits for land users delinquent in payments.

(d) For the purposes of this section, "land user" includes the owner of land; provided that the landowner may assign the responsibility for payment of assessments to the lessee or licensee of the land."

SECTION 3. Section 206E-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The authority shall consist of eleven voting members. The director of finance, the director of business, economic development, and tourism, the comptroller, and the director of transportation, or their respective designated representatives shall serve as ex officio, voting members. Seven members shall be appointed by the governor for staggered terms pursuant to section 26-34; provided that four members shall be appointed at large and, initially, three members, hereinafter referred to as county members, shall be selected from a list of ten prospective appointees recommended by the local governing body of the county in which the initial designated district is situated; and provided further that when vacancies occur in any of the three positions for which the members were selected from a list of county recommendations, the governor shall fill such vacancies on the basis of one from a list of four recommendations, two from a list of seven recommendations, or three from a list of ten recommendations. The list of recommendations shall be made by the local governing body of the county. If an additional district is designated by the legislature [~~in a county other than the county in which the initial designated district is situated~~], the total membership of the authority shall be increased as prescribed above by the appointment of three additional members[.], except as provided for in section 206E-A. Notwithstanding section 92-15, a majority of all members shall constitute a quorum to do business, and the concurrence of a majority of all members shall be necessary to make any action of the authority valid; except that, on any matter relating solely to a specific community development district, the [~~county~~] members representing districts other than that specific community development district shall [~~not vote,~~] neither vote, nor shall they be counted to constitute a quorum, and concurrence shall be required of a majority of that portion of the authority made up of all ex officio voting members, members at large, and county and district members representing the district for which action is being proposed in order for such action to be valid. All members shall continue in office until their respective successors have been appointed and qualified. Except as herein provided, no member appointed under this subsection shall be an officer or employee of the State or its political subdivisions."

SECTION 4. Section 206E-4, Hawaii Revised Statutes, is amended to read as follows:

“§206E-4 Powers; generally. Except as otherwise limited by this chapter, the authority may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Make rules with respect to its projects, operations, properties, and facilities, which rules shall be in conformance with chapter 91;
- (6) Through its executive director appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapters 76 and 77¹;
- (7) Prepare or cause to be prepared a community development plan for all designated community development districts;
- (8) Acquire, reacquire, or contract to acquire or reacquire by grant or purchase real, personal, or mixed property or any interest therein; to own, hold, clear, improve, and rehabilitate, and to sell, assign, exchange, transfer, convey, lease, or otherwise dispose of or encumber the same;
- (9) Acquire or reacquire by condemnation real, personal, or mixed property or any interest therein for public facilities, including but not limited to streets, sidewalks, parks, schools, and other public improvements;
- (10) By itself, or in partnership with qualified persons, acquire, reacquire, construct, reconstruct, rehabilitate, improve, alter, or repair or provide for the construction, reconstruction, improvement, alteration, or repair of any project; own, hold, sell, assign, transfer, convey, exchange, lease, or otherwise dispose of or encumber any project, and in the case of the sale of any project, accept a purchase money mortgage in connection therewith; and repurchase or otherwise acquire any project which the authority has theretofore sold or otherwise conveyed, transferred, or disposed of;
- (11) Arrange or contract for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys, or other places, or for the furnishing of facilities or for the acquisition of property or property rights or for the furnishing of property or services in connection with a project;
- (12) Grant options to purchase any project or to renew any lease entered into by it in connection with any of its projects, on such terms and conditions as it deems advisable;
- (13) Prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project, and from time to time to modify such plans, specifications, designs, or estimates;
- (14) Provide advisory, consultative, training, and educational services, technical assistance, and advice to any person, partnership, or corporation, either public or private, in order to carry out the purposes of this chapter, and engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;

- (15) Procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable;
- (16) Contract for and accept gifts or grants in any form from any public agency or from any other source;
- (17) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter; and
- (18) Allow satisfaction of any affordable housing requirements imposed by the authority upon any proposed development project through the construction of reserved housing, as defined in section 206E-101, by a person on land located outside the geographic boundaries of the authority's jurisdiction. Such substituted housing shall be located on the same island as the development project and shall be substantially equal in value to the required reserved housing units that were to be developed on site. The authority shall establish the following priority in the development of reserved housing:
 - (A) Within the community development district;
 - (B) Within areas immediately surrounding the community development district;
 - (C) Areas within the central urban core;
 - (D) In outlying areas within the same island as the development project.

The Hawaii community development authority shall adopt rules relating to the approval of reserved housing that are developed outside of a community development district. The rules shall include, but are not limited to, the establishment of guidelines to ensure compliance with the above priorities[; and

- (19) ~~Render technical and administrative services as necessary to assist the Barbers Point Naval Air Station redevelopment commission as the local redevelopment authority in the development of the Kalaeloa community development district].”~~

SECTION 5. Chapter 206G, Hawaii Revised Statutes, is repealed.

SECTION 6. All lands conveyed to the Barbers Point Naval Air Station redevelopment commission by the federal government shall be transferred to the Hawaii community development authority upon the approval of this Act.

SECTION 7. As of June 28, 2002, the director of finance shall transfer the unexpended balance of the Kalaeloa community development revolving fund established pursuant to section 206G-8, Hawaii Revised Statutes, to the Kalaeloa community development revolving fund established pursuant to section 2.

SECTION 8. The powers, functions, and duties of the Barbers Point Naval Air Station redevelopment commission are transferred to the Hawaii community development authority. All references in any contract or other document entered into by the Barbers Point Naval Air Station redevelopment commission shall apply to the Hawaii community development authority as if the latter were specifically named in the law, contract, or other document in place of the Barbers Point Naval Air Station redevelopment commission. The Hawaii community development authority shall assume the duties and carry out any contracts entered into by the Barbers Point Naval Air Station redevelopment commission prior to the effective date of this Act.

SECTION 9. All rules, policies, procedures, guidelines, and other materials adopted by the Barbers Point Naval Air Station redevelopment commission to implement provisions of the Hawaii Revised Statutes which are reenacted or made applicable to the Hawaii community development authority by this Act, shall remain in full force and effect until amended or repealed by the Hawaii community development authority pursuant to chapter 91, Hawaii Revised Statutes. In the interim, every reference to the Barbers Point Naval Air Station redevelopment commission in those rules, policies, procedures, guidelines, and other material is amended to refer to the Hawaii community development authority as appropriate.

SECTION 10. There is appropriated out of the Kalaeloa community development revolving fund the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2002-2003 to be used to fund operating costs for the Kalaeloa community development district. Such costs may include costs associated with staffing.

The sum appropriated shall be expended by the Hawaii community development authority for the purposes of this Act.

SECTION 11. It is the intent of this Act to not impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modifications with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 12. In codifying the new part added to chapter 206E, Hawaii Revised Statutes, by section 2 of this Act and referred to in section 3 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect on July 1, 2002; provided that section 206E-E, Hawaii Revised Statutes, added by section 2 of this Act, and section 7 of this Act, shall take effect on June 28, 2002.

(Approved June 25, 2002.)

Note

1. So in original.