

**ACT 56**

H.B. NO. 624

A Bill for an Act Relating to the Structure of Government.

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

**PART I**

SECTION 1. The legislature finds that to be successful in the twenty-first century global economy, Hawaii must position itself as a leader in technology development, transfer, and commercialization. Significant progress has been made in past years through programs supported by federal and state initiatives, such as programs administered by the Hawaii technology development corporation, Hawaii strategic development corporation, and Hawaii technology development venture. However, the legislature believes that additional efforts are

required to move Hawaii's technology industry to achieve local technology commercialization. Innovation in science and technology fields will not only enable the State to succeed in the global marketplace, but will also support the State's sustainable economic development goals to include a viable and vibrant technology and manufacturing labor force.

The purpose of this Act is to transfer the resources, duties, and responsibilities of the Hawaii strategic development corporation to the Hawaii technology development corporation to:

- (1) Promote, develop, and expand Hawaii's innovation and technology industry;
- (2) Promote a more diverse economy that offers high quality, knowledge-based jobs; and
- (3) Develop policy and resource allocations to enable and support start-up companies, sustain existing companies, and attract companies to relocate or establish offices in Hawaii.

## PART II

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

### **“PART . STRATEGIC DEVELOPMENT PROGRAMS**

#### **A. GENERAL PROVISIONS**

**§206M-A Strategic development programs; purpose; powers.** The purpose of the strategic development programs is to encourage economic development and diversification in Hawaii through innovative actions in cooperation with private enterprises. The development corporation shall establish programs to stimulate private capital investment in Hawaii toward investments that promote the welfare of citizens in this State, economic growth, employment, and economic diversification. The development corporation may use public funds to provide incentives to private investment activity, by co-investing public funds in private financial organizations to increase the impact of the public investment while utilizing the investment acumen of the private sector, and by using public funds to reduce the risks of private investments. The development corporation shall have the flexibility to provide various types of financial assistance. When providing financial assistance, the development corporation shall make provision for the recovery of its expenditures, as far as possible.

**§206M-B Strategic development programs revolving fund.** There is established the strategic development programs revolving fund. The following moneys shall be deposited into the strategic development programs revolving fund and shall not be considered part of the general fund: all moneys appropriated by the legislature, received as repayments of loans, earned on investments, received pursuant to a venture agreement, received as royalties, received as premiums or fees charged by the development corporation, or otherwise received by the development corporation.

**§206M-C Hydrogen investment special fund.** (a) There shall be established the hydrogen investment special fund, into which shall be deposited:

- (1) Appropriations made by the legislature to the fund;
- (2) All contributions from public or private partners;

- (3) All interest earned on or accrued to moneys deposited in the special fund; and
  - (4) Any other moneys made available to the special fund from other sources.
- (b) Moneys in the fund shall be expended by the development corporation:
- (1) To provide seed capital for and venture capital investments in private sector and federal projects for research, development, testing, and implementation of the Hawaii renewable hydrogen program, as set forth in section 196-10; and
  - (2) For any other purpose deemed necessary to carry out the purposes of section 196-10.

**§206M-D Contracts for services necessary for management and operation of the strategic development programs.** The development corporation may contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the strategic development programs. The development corporation may use all appropriations, grants, contractual reimbursements, and all other funds not appropriated for a designated purpose to pay for the proper general expenses and to carry out the purposes of the strategic development programs.

**§206M-E Actions of the development corporation; guidelines.** (a) All actions taken by the development corporation shall be necessary to achieve the purposes and objectives of this part. The development corporation shall evaluate all programs after three years to determine their effectiveness. The development corporation shall establish rules to assure equal opportunity to minority-owned businesses, and shall encourage the development of minority-owned businesses. The development corporation shall support and encourage participation by Hawaii companies in federal grant programs, such as the Small Business Innovation Research Program.

(b) Financial participation shall be made on the condition that the recipient of the assistance shall utilize the money to assist economic development projects within the State that have potential for creating new jobs or retaining current jobs within the State.

(c) Financial participation by the development corporation in private financial investment funds shall be made with the provision that the private fund shall make investments in Hawaii in amounts at least equal to the amount of state participation.

(d) The development corporation shall not make direct investments in individual businesses except upon a two-thirds vote of the board in each case considered. When deciding whether to enter into a direct investment, the development corporation shall consider whether:

- (1) The project is economically sound;
- (2) The project can be successfully completed;
- (3) The project will promote economic diversification;
- (4) The project is located in or will locate in the State and has a reasonable potential to create desirable employment opportunities for residents of the State;
- (5) The project has been unable to obtain sufficient funding on reasonable terms through ordinary means; and
- (6) The project can be partially financed through ordinary means at reasonable terms.

The development corporation shall not acquire securities to an extent that would provide the development corporation effective voting control of any enterprise after giving effect to the conversion of all outstanding convertible securities of the enterprise.

(e) Investments by the development corporation to persons shall be made on the basis of solicitation and a competitive technical review process, subject to the availability of funds allocated to the development corporation for making investments. Investments by the development corporation shall not be subject to chapter 42F. Any organization applying for an investment shall meet the following standards:

- (1) Have bylaws or policies that describe the manner in which business is conducted and policies relating to nepotism and management of potential conflict of interest situations;
- (2) Be licensed and accredited, as applicable, in accordance with the requirements of federal, state, and county governments;
- (3) Comply with applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, or physical handicap; and
- (4) Comply with other requirements as the board may prescribe.

**§206M-F Business and industry evaluation and priorities for job opportunity and economic development.** The development corporation shall develop procedures to set priorities as to which types of businesses and industries are most likely to provide significant opportunities for economic development and diversification in the State, consistent with the purposes of this subpart. This evaluation shall take into account the guidelines provided by the state plan for economic development. Based on these findings, the development corporation shall establish targets by which the operations and programs of the development corporation under this part shall be guided.

**§206M-G Confidentiality of trade secrets or the like; disclosure of financial information.** Notwithstanding chapter 92, 92F, or any other law to the contrary, any documents or data made or received by any member or employee of the development corporation under this part, to the extent that the material or data consist of trade secrets, commercial or financial information regarding the operation of any business conducted by an applicant for, or recipient of, any form of assistance that the development corporation is empowered to render, or regarding the competitive position of that applicant in a particular field of endeavor, shall not be a public record; provided that if the development corporation purchases a qualified security from an applicant, the commercial and financial information, excluding confidential business information, shall be deemed to become a public record of the development corporation. If the information is made or received by any member or employee of the development corporation after the purchase of the qualified security, it shall become a public record three years from the date the information was made or received. Any discussion or consideration of trade secrets or commercial or financial information, shall be held by the board, or any subcommittee of the board, in executive sessions closed to the public; provided that the purpose of any such executive session shall be set forth in the official minutes of the development corporation and business which is not related to that purpose shall not be transacted, nor shall any vote be taken during the executive sessions.

**§206M-H Requests for assistance from the development corporation; procedure.** (a) The board shall approve or disapprove requests for assistance

within ninety days of receiving a written application under this part. Upon written request by an applicant, the board may reconsider its denial of an application for assistance or may waive the ninety-day deadline for approving or disapproving an application.

(b) Any person who submits any statement, report, application, or other document to the development corporation under this part that is known to the person to be false in any material respect shall be guilty of a class C felony.

(c) The development corporation may condition any assistance of any type under this part by placing restrictions on the recipient in regard to the recipient's assets or indebtedness or in any other manner deemed appropriate by the development corporation. A recipient who accepts assistance from the development corporation under this part shall be deemed to agree to be bound by any conditions or restrictions imposed by the development corporation.

**§206M-I Private sector financial support.** Significant private sector financial support shall be associated with any economic development project for which the development corporation provides assistance under this part.

**§206M-J Limitations on debt owed to the development corporation.** Not more than \$5,000,000 in financial assistance, excluding rights and royalties under a venture capital agreement, shall be provided to any one enterprise at any time under this part. The direct investments of the development corporation shall not exceed five per cent of the assets of the development corporation, excluding rights and royalties under a venture capital agreement; provided that by a two-thirds vote of the board, this amount may be increased to a limit of twenty-five per cent of the total assets of the development corporation.

**§206M-K Limitation on liability.** Chapters 661 and 662 or any other law to the contrary notwithstanding, nothing in this part shall create an obligation, debt, claim, cause of action, claim for relief, charge, or any other liability of any kind whatsoever in favor of any person or entity, without regard to whether that person or entity receives any benefits under this part, against the State or its officers and employees. The State and its officers and employees shall not be liable for the results of any investment, purchase of securities, loan, or other assistance provided pursuant to this part. Nothing in this part shall be construed as authorizing any claim against the development corporation in excess of any note, loan, or other specific indebtedness incurred by the development corporation or in excess of any insurance policy acquired for the development corporation or its employees.

**§206M-L HI growth initiative; report to legislature.** The development corporation shall submit an annual report to the legislature no later than twenty days prior to the convening of a regular session on the specific annual outcome achieved through the activities and expenditures of the HI growth initiative.

**§206M-M Annual audit.** The books and records of the strategic development programs shall be subject to an annual audit by an independent auditor.

## B. PROGRAM FOR SEED CAPITAL ASSISTANCE

**§206M-N Establishment.** The development corporation shall establish a program for seed capital assistance.

**§206M-O Seed capital investments.** Subject to this subpart, the development corporation may invest in:

- (1) A certified development company under sections 501 to 503 of the Small Business Investment Act of 1958 (15 U.S.C. 695 to 697) and the regulations adopted under those sections;
- (2) A small business investment company under the Small Business Investment Act (15 U.S.C. 631 to 634, 636 to 649) and the regulations adopted under those sections;
- (3) A minority enterprise small business investment corporation or equivalent venture capital corporation;
- (4) A similar entity that may leverage its capital under a federal program; or
- (5) A seed capital fund or partnership.

**§206M-P Purposes and terms of investments.** (a) Investments may be used for any purpose consistent with the purposes and objectives of this part, including but not limited to:

- (1) Developing a working prototype;
- (2) Preparing a development plan;
- (3) Performing an initial market analysis;
- (4) Organizing a management team; and
- (5) Any other purpose reasonably related to an economic development project.

(b) Investments may be made on such terms and conditions as the development corporation shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of this part.

#### C. PROGRAM FOR VENTURE CAPITAL ASSISTANCE

**§206M-Q Establishment.** The development corporation shall establish a program for venture capital.

**§206M-R Venture capital investments.** Subject to this subpart, the development corporation may invest in:

- (1) A certified development company under sections 501 to 503 of the Small Business Investment Act of 1958 (15 U.S.C. 695 to 697) and the regulations adopted under those sections;
- (2) A small business investment company under the Small Business Investment Act (15 U.S.C. 631 to 634, 636 to 649) and the regulations adopted under those sections;
- (3) A minority enterprise small business investment corporation or equivalent venture capital corporation;
- (4) A similar entity that may leverage its capital under a federal program; or
- (5) A venture capital fund or partnership.

**§206M-S Purposes and terms of investments.** (a) Investments may be used for any purpose consistent with the purposes and objectives of this part.

(b) Investments may be made on such terms and conditions as the development corporation shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of this part.

## D. PROGRAM FOR CAPITAL ACCESS

**§206M-T Establishment.** The development corporation shall establish a program for capital access.

**§206M-U Financial assistance.** The development corporation, through the program for capital access, may:

- (1) Procure insurance, a guarantee, or a letter of credit from any source for all or a part of a loan, debenture, or lease of others, public or private, or a revenue bond issue of the State or other entity or authority authorized by law to issue revenue bonds; and
- (2) Procure insurance, a guarantee, or a letter of credit for either a single loan, debenture, or lease or for any combination of loans, debentures, or leases, or a single revenue bond issue or for all or a part of any combination of revenue bond issues.

**§206M-V Purposes and priorities required in the procuring of insurance, loan guarantees, or letters of credit.** (a) Insurance, guarantees, or letters of credit procured pursuant to section 206M-U shall be procured only for economic development projects within the State that are consistent with the purposes and objectives of this part.

(b) The development corporation shall give paramount priority in procuring insurance, guarantees, and letters of credit to economic development projects that have the greatest potential for creating new jobs or retaining current jobs within the State.

**§206M-W Conditions for procuring of insurance, loan guarantees, or letters of credit.** (a) Insurance, guarantees, or letters of credit shall not be procured pursuant to section 206M-U unless the development corporation is assured that the loans, debentures, or leases insured, or guaranteed, or for which letters of credit are issued, shall be used to assist economic development projects that also have significant private sector financial support.

(b) Insurance, guarantees, or letters of credit may be procured on such terms and conditions as the development corporation, in its sole discretion, shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of this part.

(c) The development corporation shall charge the lender or the borrower, or both, a fee or premium for procuring loan, debenture, or lease insurance, guarantee, or a letter of credit. Rules for premiums or fees shall be established by the corporation.

**§206M-X Program for capital access participation agreements.** The development corporation shall enter into agreements with lenders for participation in the program for capital access that shall include but not be limited to:

- (1) Authorization for the lender to determine, collect, and transmit to the development corporation a fee or premium charge within a specified range established consistent with the purposes and objectives of the development corporation;
- (2) Specification of whether the premium charge shall be paid by the lender, the borrower, the development corporation, or by a combination thereof in specified proportions;
- (3) The procedure by which a lender may make a claim upon the development corporation upon default by the borrower, and the conditions under which a claim may be made; and



- (4) The maximum amount of claims a lender may make upon the development corporation, which amount may be equal to or less than the proportion of the total premiums contributed by the development corporation.

**§206M-Y Establishment of special funds to secure loan insurance obligations; source of funds.** The development corporation may establish a special fund or funds for capital access into which fees or premiums collected by the development corporation are deposited.”

SECTION 3. Any unencumbered balances remaining in the Hawaii strategic development revolving fund on June 30, 2019, shall be deposited into the strategic development programs revolving fund.

SECTION 4. Any unencumbered balances remaining in the hydrogen investment capital special fund as of June 30, 2019, shall be deposited into the hydrogen investment special fund.

SECTION 5. Chapter 206M, Hawaii Revised Statutes, is amended by amending the title of part I to read as follows:

**“PART I. [HAWAII TECHNOLOGY DEVELOPMENT CORPORATION]  
GENERAL PROVISIONS”**

SECTION 6. Section 206M-1, Hawaii Revised Statutes, is amended by adding seven new definitions to be appropriately inserted and to read:

““Economic development project” means an endeavor related to industrial, commercial, or advanced technology-based agricultural enterprise. “Economic development project” shall not include that portion of an endeavor devoted to the construction of housing.

“Enterprise” means a person with a place of business in Hawaii which is, or proposes to be, engaged in business in Hawaii; provided that the endeavor shall not be devoted to the sale of goods at retail, construction of housing, or tourism-related services.

“Minority-owned businesses” means businesses at least fifty per cent owned, controlled, and managed by socially or economically disadvantaged persons.

“Person” means a sole proprietorship, partnership, joint venture, corporation, or other association of persons organized for commercial or industrial purposes.

“Professional investor” means any bank, bank holding company, savings institution, trust company, insurance company, investment company registered under the federal Investment Company Act of 1940, financial services loan company, pension or profit-sharing trust or other financial institution or institutional buyer, licensee under the federal Small Business Investment Act of 1958, or any person, partnership, or other entity of whose resources a substantial amount is dedicated to investing in securities or debt instruments and whose net worth exceeds \$250,000.

“Seed capital” means financing provided for the earliest stage of business development, including but not limited to developing a working prototype, preparing a business plan, performing an initial market analysis, or organizing a management team.

“Venture capital investment” means any of the following investments in a business:



- (1) Common or preferred stock and equity securities without a repurchase requirement for at least five years;
- (2) A right to purchase stock or equity securities;
- (3) Any debenture or loan, whether or not convertible or having stock purchase rights, which are subordinated, together with security interests against the assets of the borrower, by their terms to all borrowings of the borrower from other institutional lenders, and that is for a term of not less than three years, and that has no part amortized during the first three years; and
- (4) General or limited partnership interests.”

SECTION 7. Section 206M-2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) There is established the Hawaii technology development corporation, which shall be a public body corporate and politic and an instrumentality and agency of the State. The development corporation shall be placed within the department of business, economic development, and tourism for administrative purposes, pursuant to section 26-35. The purpose of the development corporation shall be to facilitate the growth and development of the commercial technology industry in Hawaii. Its duties shall include[.] but not be limited to:

- (1) Connecting Hawaii-based technology companies and entrepreneurs to new market opportunities;
- ~~[(4)]~~ (2) Developing and encouraging industrial parks as technology innovation centers and other technology infrastructure projects and developing or assisting with the development of projects within or outside of industrial parks, including participating with the private sector in such development;
- ~~[(2)]~~ (2) Providing financial and other support and services to Hawaii-based technology companies;
- ~~(3) Collecting and analyzing information on the state of commercial technology activity in Hawaii;~~
- ~~(4) Promoting and marketing Hawaii as a site for commercial technology activity; and~~
- ~~(5) Providing advice on policy and planning for technology-based economic development.]~~
- (3) Encouraging, initiating, and aiding in the development and commercialization of local innovation and technology;
- (4) Furnishing the financial and other support and services to institute and grow local innovation and technology;
- (5) Developing policy and resource allocations to enable and support start-up companies, sustain existing companies, and attract companies to relocate or establish offices in Hawaii;
- (6) Attracting resources from public and private sector organizations and agencies to develop a local qualified innovation research and technology workforce;
- (7) Coordinating with other state agencies and entities to support the innovation and technology industry;
- (8) Collecting and analyzing information on the state of local and global technology activity; and
- (9) Taking any and all other actions reasonably designed to promote the purposes of the corporation in the interest of promoting the general welfare of the people of the State.
- (b) The governing body of the development corporation shall consist of a board of directors having ~~[eleven]~~ nine voting members. ~~[Seven of the members~~

shall be appointed by the governor for staggered terms pursuant to section 26-34. Six of the appointed members shall be from the general public and selected on the basis of their knowledge, interest, and proven expertise in, but not limited to, one or more of the following fields: finance, commerce and trade, corporate management, marketing, economics, engineering, and telecommunications, and other technology fields. The other appointed member shall be selected from the faculty of the University of Hawaii.] The director of business, economic development, and tourism, and an appointed member from the University of Hawaii, or their designated representatives, shall serve as ex officio voting members of the board. All members shall have knowledge, interest, and proven expertise in, but not limited to, one or more of the following fields: finance, commerce and trade, corporate management, marketing, economics, engineering, telecommunications, innovation, and other technology fields. Seven of the members shall be appointed by the governor pursuant to section 26-34 for staggered terms; provided that membership shall include:

- (1) Three members who shall be appointed by the governor from a list of four nominees submitted by the president of the senate, and three members who shall be appointed by the governor from a list of four nominees submitted by the speaker of the house of representatives; provided that if fewer than four nominees are submitted for each appointment, the governor may disregard the list; and
- (2) One member who shall be appointed by the governor from the economic development board of Maui, Kauai, or Hawaii county.

The governor shall make board member appointments to ensure the fulfillment of all requirements of paragraphs (1) and (2); provided that upon the occurrence of a vacancy subject to paragraph (1), the governor shall notify the president of the senate and the speaker of the house of representatives of any unfulfilled requirements pursuant to paragraphs (1) and (2), and the president of the senate or the speaker of the house of representatives, as appropriate, shall submit nominees who fulfill the requirements pursuant to paragraphs (1) and (2). All appointed members of the board shall continue in office until their respective successors have been appointed. [The director of business, economic development, and tourism, the director of finance, an appointed member from the board of the Hawaii strategic development corporation, and an appointed member from the board of the natural energy laboratory of Hawaii authority, or their designated representatives, shall serve as ex officio[, voting members of the board.] The director of business, economic development, and tourism shall serve as the chairperson until such time as a chairperson is elected by the board from the membership. The board shall elect [such] other officers as it deems necessary.”

SECTION 8. Section 206M-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The development corporation shall have all the powers necessary to carry out its purposes, including the powers to:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at its pleasure;
- (3) Make and execute, enter into, amend, supplement, and carry out contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter, including, with the approval of the governor, a project agreement, or an amendment or supplement to an existing project agreement, with a qualified person, and to enter into and carry out any agreement whereby the obligations of a qualified person under a project agreement shall be unconditionally guaranteed or insured by, or the per-

formance thereof assigned to, or guaranteed or insured by, a person or persons other than the qualified person; and extend or renew any project agreement or any other agreement related thereto; provided that any such renewal or extension shall be subject to the approval of the governor unless made in accordance with provisions for the extension or renewal contained in a project agreement or related agreement theretofore approved by the governor;

- (4) Make and alter bylaws for its organization and internal management;
- (5) Adopt rules under chapter 91 necessary to effectuate this chapter in connection with industrial parks, projects, multi-project programs, and the operations, properties, and facilities of the<sup>1</sup> corporation;
- (6) Through its chief executive officer, appoint officers, agents, consultants, advisors, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapter 76;
- (7) Prepare or cause to be prepared development plans for industrial parks;
- (8) Acquire, own, lease, hold, clear, improve, and rehabilitate real, personal, or mixed property and assign, exchange, transfer, convey, lease, sublease, or encumber any project, including by way of easements;
- (9) Acquire, construct, improve, install, equip, or develop or provide for the acquisition, construction, improvement, installation, equipping, or development of any project and designate a qualified person as its agent for such purpose;
- (10) Own, hold, assign, transfer, convey, exchange, lease, sublease, or encumber any project;
- (11) Arrange or initiate appropriate action for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys, easements, or other places, the furnishing of improvements, the acquisition of property or property rights, or the furnishing of property or services in connection with an industrial park or project;
- (12) Prepare, or cause to be prepared, plans, specifications, designs, and estimates of cost for the acquisition, construction, reconstruction, improvement, installation, equipping, development, or maintenance of any project or industrial park, and from time to time modify the plans, specifications, designs, or estimates;
- (13) Engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (14) Procure insurance against any loss in connection with its property and other assets and operations in amounts and from insurers as it deems desirable;
- ~~[(15) Accept and expend gifts or grants in any form from any public agency or from any other source;~~
- ~~[(16)]~~ (15) Issue special purpose revenue bonds and refunding special purpose revenue bonds pursuant to and in accordance with this chapter in principal amounts as may be authorized from time to time by law to finance or refinance the cost of a project, singly or as part of a multi-project program, or an industrial park as authorized by law and provide for the security thereof as permitted by this chapter;
- ~~[(17)]~~ (16) Lend or otherwise apply the proceeds of the bonds issued for a project or an industrial park either directly or through a trustee to a qualified person for use and application by the qualified person in the acquisition, construction, improvement, installation, equipping, or development of a project or industrial park, or agree with the

- qualified person whereby any of these activities shall be undertaken or supervised by that qualified person or by a person designated by the qualified person;
- [48)] (17) As security for the payment of the principal of, premium, if any, and interest of the special purpose revenue bonds issued for a project to:
- (A) Pledge, assign, hypothecate, or otherwise encumber all or any part of the revenues and receipts derived or to be derived by the development corporation under the project agreement for the project for which the bonds are issued;
  - (B) Pledge and assign the interest and rights of the development corporation under the project agreement or other agreement with respect to the project or the special purpose revenue bonds;
  - (C) Pledge and assign any bond, debenture, note, or other evidence of indebtedness received by the development corporation with respect to the project; or
  - (D) Any combination of the foregoing;
- [49)] (18) With or without terminating a project agreement, exercise any and all rights provided by law for entry and reentry upon or take possession of a project at any time or from time to time upon breach or default by a qualified person under a project agreement, including any action at law or in equity for the purpose of effecting its rights of entry or reentry or obtaining possession of the project or for the payments of rentals, user taxes, or charges, or any other sum due and payable by the qualified person to the development corporation pursuant to the project agreement;
- [20)] (19) Enter into arrangements with qualified county development entities whereby the board would provide financial support to qualified projects proposed;
- [24)] (20) Create an environment in which to support technology economic development, including but not limited to:
- (A) Supporting all aspects of technology-based economic development;
  - (B) Developing instructive programs, identifying issues and impediments to the growth of technology industry in Hawaii; and
  - (C) Providing policy analysis and information important to the development of technology industries in Hawaii;
- [22)] (21) Develop programs that support start-up and existing technology companies in Hawaii and attract new companies to relocate to or establish operations in Hawaii by assessing the needs of these companies and providing the physical and technical infrastructure to support their operations;
- [23)] (22) Coordinate its efforts with other public and private agencies involved in stimulating technology-based economic development in Hawaii, including but not limited to:
- (A) The department of business, economic development, and tourism;
  - (B) The Pacific international center for high technology research; and
  - (C) The office of technology transfer and economic development of the University of Hawaii; and
  - (D) The state energy office;

- [~~(24)~~] (23) Promote and market Hawaii as a site for commercial technology activity, including the expenditure of funds for protocol purposes at the discretion of the board;
- [~~(25)~~] (24) Provide advice on policy and planning for technology-based economic development;
- [~~(26)~~] (25) Finance, conduct, or cooperate in financing or conducting technological, business, financial, or other investigations that are related to or likely to lead to business, technology, and economic development by making and entering into contracts and other appropriate arrangements, including the provision of loans, start-up and expansion capital, loan guaranty, loans convertible to equity, equity charged and received by the corporation, and other forms of assistance;
- [~~(27)~~] (26) Solicit, study, and assist in the preparation of business plans and proposals of new or established businesses;
- [~~(28)~~] (27) Provide advice, technical and marketing assistance, support, and promotion to enterprises in which investments have been made;
- [~~(29)~~] (28) Acquire, hold, and sell qualified securities;
- [~~(30)~~] (29) Consent, subject to the provisions of any contract with note-holders or bondholders, whenever the corporation deems it necessary or desirable in the fulfillment of the purposes of this chapter, to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, or any other terms, of any contract or agreement of any kind to which the corporation is a party;
- [~~(31)~~] (30) Invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in such investments as may be lawful for fiduciaries in the State; [~~and~~]
- (31) ~~Coordinate the development corporation's programs with any education and training program;~~
- (32) ~~Carry out specialized programs designed to encourage the development of new products, businesses, and markets;~~
- (33) ~~Prepare, publish, and distribute such technical studies, reports, bulletins, and other materials as it deems appropriate, subject only to the maintenance and respect for confidentiality of client proprietary information;~~
- (34) ~~Organize, conduct, sponsor, or cooperate in and assist in the conduct of conferences, demonstrations, and studies relating to the stimulation and formation of businesses;~~
- (35) ~~Provide and pay for such advisory services and technical, managerial, and marketing assistance, support, and promotion as may be necessary or desirable to carry out the purposes of this chapter;~~
- (36) ~~Accept donations, grants, bequests, and devises of money, property, service, or other things of value that may be received from the United States or any agency thereof, any governmental agency, or any public or private institution, person, firm, or corporation, to be held, used, or applied for any or all of the purposes specified in this chapter. Receipt of each donation or grant shall be detailed in the annual report of the development corporation. The report shall include the identity of the donor or lender, the nature of the transaction, and any conditions attaching thereto;~~
- (37) ~~Acquire real property, or an interest therein, by purchase or foreclosure, where that acquisition is necessary or appropriate to protect or secure any investment or loan in which the development corpo-~~

- ration has an interest; sell, transfer, and convey the property to a buyer and if the sale, transfer, or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease the property to a tenant;
- (38) Acquire, own, hold, dispose of, and encumber personal property of any nature, or any interest therein;
- (39) Enter into agreements or other transactions with any federal, state, or county agency;
- (40) Appear on its own behalf before state, county, or federal agencies;
- (41) Appoint advisory committees as deemed necessary;
- (42) Exercise any other powers of a corporation organized under the laws of the State; and
- [ (32) ] (43) Do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this chapter.”

### PART III

SECTION 9. Section 227D-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The governing body of the authority shall consist of a board of directors having ~~[thirteen]~~ twelve voting members. Three members from the general public shall be appointed by the governor for staggered terms pursuant to section 26-34, except that one of these members shall be a resident of the county of Hawaii. The members shall be selected on the basis of their knowledge, interest, and proven expertise in, but not limited to, one or more of the following fields: finance, commerce and trade, corporate management, marketing, economics, engineering, energy management, real estate development, property management, aquaculture, and ocean science. The chairperson and secretary of the research advisory committee shall serve on the board. The director of business, economic development, and tourism, the chairperson of the board of land and natural resources, the president of the University of Hawaii, the mayor of the county of Hawaii, and an appointed member from the board of the Hawaii technology development corporation, ~~[and an appointed member from the board of the Hawaii strategic development corporation,]~~ or their designated representatives, shall serve as ex officio, voting members of the board. The tenants of the authority shall elect two members to the board from among the tenants of the authority, of which one member shall serve a two-year term, and one member shall serve a four-year term. In electing the tenant members, each tenant shall be entitled to cast one vote for each member position. The tenant members shall be recused from voting on setting lease rents, water rates, or utility rates, but may participate in discussions. The director of business, economic development, and tourism shall serve as the chairperson until such time as a chairperson is elected by the board from the membership. The board shall elect other officers as it deems necessary.”

### PART IV

SECTION 10. Chapter 211F, Hawaii Revised Statutes, is repealed.

SECTION 11. On July 1, 2019, the terms of the board members of the Hawaii strategic development corporation shall expire.



**SECTION 12.** All rights, powers, functions, and duties of the Hawaii strategic development corporation are transferred to the Hawaii technology development corporation.

All employees who occupy civil service positions and whose functions are transferred to the Hawaii technology development corporation by this Act shall retain their civil service status, whether permanent or temporary. Employees shall be transferred without loss of salary, seniority (except as prescribed by applicable collective bargaining agreements), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act; provided that the employees possess the minimum qualifications and public employment requirements for the class or position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act may retain the employee's exempt status, but shall not be appointed to a civil service position as a consequence of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, vacation or sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act; provided that the employees possess legal and public employment requirements for the position to which transferred or appointed, as applicable; provided further that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The chief executive officer of the Hawaii technology development corporation may prescribe the duties and qualifications of these employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.

**SECTION 13.** All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the Hawaii strategic development corporation relating to the functions transferred to the Hawaii technology development corporation shall be transferred with the functions to which they relate.

**SECTION 14.** All rules, policies, procedures, guidelines, and other materials adopted or developed by the Hawaii strategic development corporation to implement provisions of the Hawaii Revised Statutes, which are made applicable to the Hawaii technology development corporation by this Act, shall remain in full force and effect until amended or repealed by the department of business, economic development and tourism pursuant to chapter 91, Hawaii Revised Statutes. In the interim, every reference to the Hawaii strategic development corporation in those rules, policies, procedures, guidelines, and other material is amended to refer to the Hawaii technology development corporation as appropriate.

**SECTION 15.** All deeds, leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the Hawaii strategic development corporation pursuant to the provisions of the Hawaii Revised Statutes, which are made applicable to the Hawaii technology development corporation by this Act, shall remain in full force and effect. Upon the effective date of this Act, every reference to the Hawaii strategic development corporation therein shall be construed as a reference to the Hawaii technology development corporation as appropriate.



PART V

SECTION 16. Section 206M-15.5, Hawaii Revised Statutes, is amended to read as follows:

**“§206M-15.5 Technology special fund.** There is established in the state treasury a fund to be known as the technology special fund, into which shall be deposited, except as otherwise provided by section 206M-17:

- (1) Any appropriations or other funds required to be deposited by law; and
  - (2) All moneys, fees, and equity from tenants, qualified persons, or other users of the development corporation’s industrial parks, projects, other leased facilities, and other services and publications;
- provided that the total amount of moneys in the fund shall not exceed [~~\$3,000,000~~] \$300,000 at the end of any fiscal year. All moneys in the fund are appropriated for the purposes of and shall be expended by the development corporation for the operation, maintenance, and management of its industrial parks, projects, facilities, services, and publications, and to pay the expenses in administering the special purpose revenue bonds of the development corporation or in carrying out its project agreements.”

SECTION 17. Any unencumbered balances remaining in the technology special fund as of July 1, 2019, shall lapse to the credit of the general fund.

PART VI

SECTION 18. APPROPRIATIONS. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized, as the case may be, from the means of financing specified to the expending agencies designated for the fiscal biennium beginning July 1, 2019, and ending June 30, 2021. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the position ceilings indicated for each fiscal year, except as provided elsewhere in this part or as provided by general law.

PROGRAM APPROPRIATIONS					
ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS	
				FISCAL M	FISCAL M
				YEAR O	YEAR O
				2019-2020 F	2020-2021 F
19.	BED143 - HAWAII TECHNOLOGY DEVELOPMENT CORPORATION				
				3,00 *	3,00 *
				5,00 #	5,00 #
	OPERATING		BED	1,336,222 A	1,336,222 A
			BED	1,604,258 B	1,604,258 B
			BED	2,017,203 W	2,017,203 W
				9,00 #	9,00 #
			BED	994,214 P	994,214 P

SECTION 19. There is appropriated out of the general revenues of the State of Hawaii the sum of \$720,000 or so much thereof as may be necessary for fiscal year 2019-2020 to be expended as follows:

- (1) \$90,000 for one permanent full-time (1.0 FTE) technology park co-ordinator position; and
- (2) \$630,000 for a first responders technology park proof of concept.

The sum appropriated shall be expended by the Hawaii technology development corporation for the purposes of this part.

SECTION 20. Provided that, notwithstanding any provision contained in the General Appropriations Act of 2019 (House Bill No. 2, H.D. 1, S.D. 1, C.D. 1),<sup>2</sup> that appropriates funds and establishes position ceilings, the appropriations and positions authorized in this part shall be in addition to the positions authorized for that program under the General Appropriations Act of 2019; provided further that any incumbent employee shall retain the employee's:

- (1) Civil service status, whether permanent or temporary; and
- (2) Salary, seniority (except as may be prescribed by an applicable collective bargaining agreement), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws.

SECTION 21. Provided that, notwithstanding any law to the contrary, the position ceilings and funds appropriated in this part may be transferred with the approval of the governor to the General Appropriations Act of 2019 (House Bill No. 2, H.D. 1, S.D. 1, C.D. 1),<sup>2</sup> for program execution and expenditure.

SECTION 22. If any portion of a specific appropriation made by this part is held to be invalid for any reason, the remaining portion shall be expended to fulfill the objective of the appropriation to the extent possible.

SECTION 23. If manifest clerical, typographical, or other mechanical errors are found in this part, the governor may correct the errors.

## PART VII

SECTION 24. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 25. In codifying the new sections added by section 2 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 26. The term of office for each existing member of the board of directors of the Hawaii technology development corporation in office as of the day before the effective date of this Act shall terminate on May 31, 2020. The nomination and appointment of successor members of the Hawaii technology development corporation pursuant to section 7 of this Act shall not cause the term of office of any existing member to terminate before that date, regardless of the date of the successor member's appointment by and with the advice and consent of the Senate.

No existing member of the board of directors of the Hawaii technology development corporation as it is constituted on the day prior to the effective date of this Act shall serve as a holdover member due to a vacancy as of May 31, 2020, in the board of directors of the Hawaii technology development corporation as it is constituted by section 7 of this Act.

The speaker of the house of representatives and president of the senate shall each submit lists of four nominees for each appointment subject to their re-

spective nominating authority, as required by section 7 of this Act, no later than January 31, 2020. The governor shall make all appointments of members of the board of directors of the Hawaii technology development corporation, including from each of the lists submitted, no later than March 31, 2020.

SECTION 27. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 28. This Act shall take effect upon its approval; provided that part VI shall take effect on June 28, 2019, and part IV shall take effect on July 1, 2019.

(Approved June 7, 2019.)

**Notes**

1. Prior to amendment “development” appeared here.
2. Act 5.