

A Bill for an Act Relating to Special Facility Revenue Bonds Issued by the Department of Transportation.

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

SECTION 1. Section 261-55, Hawaii Revised Statutes, is amended to read:

"Sec. 261-55 Special facility revenue bonds. All special facility revenue bonds authorized to be issued shall be issued pursuant to the provisions of sections 39-51 to 39-70, except as follows:

- (1) No such revenue bonds shall be issued unless at the time of issuance the department shall have entered into a special facility lease with respect to the special facility for which such revenue bonds are to be issued.
- (2) Such revenue bonds shall be issued in the name of the department, and not in the name of the State.
- (3) No further authorization of the legislature shall be required for the issuance of the special facility revenue bonds, but the approval of the governor shall be required for such issuance.
- (4) Such revenue bonds shall be payable solely from and secured solely by the revenues derived by the department from the special facility for which they are issued.
- (5) The final maturity date of such revenue bonds shall not be later than either the estimated life of the special facility for which they are issued or the initial term of the special facility lease.
- (6) If deemed necessary or advisable by the department, or to permit the obligations of the other person to the special facility lease to be registered under the U.S. Securities Act of 1933, the department with the approval of the State director of finance may appoint a national or state bank within or without the State to serve as trustee for the holders of the revenue bonds and may enter into a trust indenture or trust agreement with such trustee. The trustee may be authorized by the department to collect, hold and administer the revenues derived from the special facility for which the revenue bonds are issued and to apply such revenues to the payment of the principal and interest on such revenue bonds. In the event that any such trustee shall be appointed, any trust indenture or agreement entered into by the department with the trustee may contain the covenants and provisions authorized by sections 39-51 to 39-70 to be inserted in a resolution adopted or certificate issued, as though the words 'resolution' or 'certificate' as used in those sections read 'trust indenture or agreement'. Such covenants and provisions shall not be required to be included in the resolution or certificate authorizing the issuance of the revenue bonds if included in the trust agreement or indenture. Any resolution or certificate, trust indenture or trust agreement adopted, issued or entered into by the department pursuant to this

part may also contain any provisions required for the qualification thereof under the U.S. Trust Indenture Act of 1939. The department may pledge and assign to the trustee the special facility lease and the rights of the department including the revenues thereunder.

- (7) If the department with the approval of the State director of finance shall have appointed or shall appoint a trustee for the holders of the revenue bonds, then notwithstanding the provisions of the second sentence of section 39-65 the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange and redemption, of the revenue bonds, or may elect to limit the functions he shall perform as such fiscal agent. The department with the approval of the director of finance may appoint the trustee to serve as such fiscal agent, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange and redemption, as the department may deem necessary, advisable or expedient, including, without limitation, the holding of the revenue bonds and coupons which have been paid and the supervision and conduction of the destruction thereof in accordance with the provisions of sections 40-10 and 40-11. Nothing in this paragraph shall be a limitation upon or construed as a limitation upon the powers granted in the preceding paragraph to the department with the approval of the director of finance to appoint the trustee, or granted in sections 36-3 and 39-12 and the third sentence of section 39-65 to the director of finance to appoint the trustee or others, as fiscal agents, paying agents and registrars for the revenue bonds or to authorize and empower such fiscal agents, paying agents and registrars to perform the functions referred to in said paragraph and sections, it being the intent of this paragraph to confirm that the director of finance as aforesaid may elect not to serve as fiscal agent for the revenue bonds or may elect to limit the functions he shall perform as such fiscal agent, as the director of finance may deem necessary, advisable, or expedient.
- (8) The department may sell such revenue bonds either at public or private sale.
- (9) If no trustee shall be appointed to collect, hold and administer the revenues derived from the special facility for which such revenue bonds are issued, such revenues shall be held in a separate account in the treasury of the State, separate and apart from the airport revenue fund, to be applied solely to the carrying out of the resolution, certificate, trust indenture or trust agreement authorizing or securing such revenue bonds.
- (10) If the resolution, certificate, trust indenture or agreement shall provide that no revenue bonds issued thereunder shall be valid or obligatory for any purpose unless certified or authenticated by the trustee for the holders of such revenue bonds, signatures of the officers of the State upon such bonds required by section 39-64 may be facsimiles of their signatures.

- (11) Proceeds of such revenue bonds may be used and applied by the department to reimburse the other person to the special facility lease for all preliminary costs and expenses, including architectural and legal costs.
- (12) If the special facility lease shall require the other person to operate, maintain and repair the special facility which is the subject of such lease, at his expense, such requirement shall constitute compliance by the department with section 39-59(2) and none of the revenues derived by the department from such special facility shall be required to be applied to the purposes of section 39-60(2). Sections 39-60(4), 39-60(5) and 39-60(6) shall not be applicable to the revenues derived from a special facility lease.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved May 31, 1974.)

*Edited accordingly.