

ACT 96

H.B. NO. 3396

A Bill for an Act Relating to Convention Center.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
WAIKIKI CONVENTION CENTER AUTHORITY**

**§ -1 Findings and purpose.** Tourism has been and probably will remain the mainstay of Hawaii’s economy. Although prospects for the tourism industry appear to be excellent for the foreseeable future, the legislature finds that certain steps should be taken now to ensure this continued vitality. The legislature finds and declares that the construction of a convention center facility would strengthen Hawaii’s economy by expanding its market size to convention-going visitors.

Conventioners, because they spend more money per day than other visitors, are exceedingly desirable guests. An added benefit is that most conventions are normally held during the traditional tourist off-season. This influx of convention dollars during the normal tourist off-season results in greater year-round economic stability for all Hawaii.

The existing convention facilities in Hawaii are inadequate for the needs of many convention groups and, therefore, Hawaii has not been able to attract this segment of the market.

The legislature declares that the convention center facility should be centrally-located within Waikiki to best address the needs of prospective conventioners, and that the most appropriate site is the area generally covering the International Market Place, Coral Reef Hotel, and Kuhio Mall. This site is located in the visitor hub of Waikiki, surrounded by several major hotels and in walking distance from many of the others. In this context, a convention center is presented with the capacity to act in synergism with the surrounding uses. Equally important, the area requires redevelopment. Building a convention center at this site would, thus, serve the dual purposes of providing an easily-accessible convention center in the heart of Waikiki and of reallocating Waikiki real estate to an economically more productive use.

The legislature finds, then, that the construction of a convention center at the site and the consequent revitalization of that part of Waikiki are acutely desirable for all of Hawaii. The legislature further finds that this project would best be served by the establishment of a new State corporate supervisory agency. The fundamental objective of this agency would be to supervise and regulate the development of a convention center facility at this site.

The legislature acknowledges that private and public sector cooperation is critical to the feasibility and success of a convention facility. It finds that the development and financing of a convention facility by the private sector are feasible and desirable so as to avoid expenditure of public funds while fulfilling the State’s goals. To this end, the legislature believes that the State should invite convention

facility development proposals from private developers and enter into appropriate agreements covering the private sector's undertaking of the development and financing of a convention facility for the State at no cost to the State, in consideration for land use, zoning and other benefits for development and construction accruing to the site pursuant to the convention center development plan as adopted under this chapter.

**§ -2 Definitions.** As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

- (1) "Authority" means the Waikiki convention center authority established by this chapter.
- (2) "County" means the city and county of Honolulu.
- (3) "Local governing body" means the county council of the city and county of Honolulu.
- (4) "Public agency" means any office, department, board, commission, bureau, division, public corporation agency, or instrumentality of the federal, state, or county government.
- (5) "Public facilities" include streets, utility and service corridors, and utility lines where applicable, sufficient to adequately service developable improvements in the district, sites for schools, parks, parking garage, sidewalks, pedestrian ways, and other community facilities. "Public facilities" shall also include public highways, as defined by statute, storm drainage systems, water systems, street lighting systems, off-street parking facilities, and sanitary sewerage systems.
- (6) "Real property" means lands, structures, and interests in land, including lands under water and riparian rights, space rights, and air rights and any and all other things and rights usually included within the term. Real property also means any and all interests in such property less than full title, such as easements, incorporeal hereditaments and every estate, interest, or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages, or otherwise.

**§ -3 Waikiki convention center authority; established.** (a) There is established the Waikiki convention center authority, which shall be a body corporate and a public instrumentality of the State, for the purpose of implementing this chapter. The authority shall be placed within the department of business and economic development for administrative purposes.

(b) The authority shall consist of seven members, who shall not be public officers or employees, appointed by the governor in accordance with this section. The 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, law, architecture, commerce and trade, corporate management, marketing, economics and visitor industry.

(c) Three members shall, by and with the advice and consent of the senate, be appointed by the governor for a term of four years; provided that of the initial appointees, one shall be appointed for a two-year term. At least one of the three members appointed by the governor shall be representative of the visitor industry in Hawaii. A vacancy on the authority of a seat subject to this subsection shall be filled in accordance with Article V, section 6, of the Constitution of the State of Hawaii.

(d) One member shall, by and with the advice and consent of the senate, be appointed by the governor from a list of nominations submitted by the president of the senate. The initial appointee under this subsection shall be appointed from a list of two nominations submitted by the president of the senate, but the list of nominations for subsequent appointments shall be subject to subsection (h). The

member appointed from a list of nominations of the president of the senate shall serve for a term of four years.

(e) One member shall, by and with the advice and consent of the senate, be appointed by the governor from a list of nominations submitted by the speaker of the house of representatives. The initial appointee under this subsection shall be appointed from a list of two nominations submitted by the speaker of the house of representatives, but the list of nominations for subsequent appointments shall be subject to subsection (h). The member appointed from a list of nominations of the speaker of the house of representatives shall serve for a term of four years.

(f) One member shall, by and with the advice and consent of the senate, be appointed by the governor from a list of nominations submitted by the mayor of the city and county of Honolulu. The initial appointee under this subsection shall be appointed from a list of two nominations submitted by the mayor of the city and county of Honolulu but the list of nominations for subsequent appointments shall be subject to subsection (h). The member appointed from a list of nominations of the mayor of the city and county of Honolulu shall serve for a term of four years; provided that the initial appointee shall be appointed for a two-year term.

(g) One member shall, by and with the advice and consent of the senate, be appointed by the governor from a list of nominations submitted by the chairperson of the city council of the city and county of Honolulu. The initial appointee under this subsection shall be appointed from a list of two nominations submitted by the chairperson of the city council of the city and county of Honolulu, but the list of nominations for subsequent appointments shall be subject to subsection (h). The member appointed from a list of nominations of the chairperson of the city council of the city and county of Honolulu shall serve for a term of four years; provided that the initial appointee shall be appointed for a two-year term.

(h) Whenever a member appointed from a list of nominations submitted by the president of the senate, speaker of the house of representatives, mayor of the city and county of Honolulu or the chairperson of the city council of the city and county of Honolulu vacates the member's seat on the authority prior to the expiration of the member's term, the governor shall fill the vacancy for the unexpired term by appointment from a list of two nominations submitted by the nominating authority aforesaid, as the case may be. Whenever the term of a member appointed from a list of nominations submitted by any of the nominating authorities expires, the governor shall appoint a member from a list of two nominations submitted by such nominating authority, as the case may be; provided that such nominating authority may nominate and the governor may reappoint a member to another term so long as the reappointment is not contrary to subsection (j).

(i) An appointment required to be made from a list of nominations submitted by any of the nominating authorities shall be made by the governor within ten days of receipt of the list of nominations.

(j) Each term of a member of the authority shall commence on July 1 and expire on June 30. No person shall be appointed consecutively to more than two terms as a member of the authority. No person shall serve as a member of the authority for more than eight consecutive years.

(k) Any member of the authority whose term has expired and who is not disqualified from membership under subsection (j) may continue in office as a holdover member until a successor is appointed; provided that a holdover member shall not hold office beyond the end of the second regular legislative session following the expiration of the member's term of office.

(l) The governor may remove or suspend for cause any member of the authority after due notice and public hearing.

(m) Members shall:

- (1) Serve part time;
- (2) Be paid compensation of \$75 for each day in the performance of official duties; and
- (3) Be reimbursed for expenses, including travel expenses, incurred in the performance of official duties.

(n) Officers of the authority, including the chairperson, shall be selected by the members.

**§ -4 Purpose; powers.** (a) The primary purpose of the authority shall be to review for approval the proposed convention center development plan of a private developer and to supervise the development by a private developer of all development within the convention center district pursuant to the convention center development plan approved by the authority, including the development of a convention center facility which shall include, exhibition halls, meeting rooms, a plenary session hall, and support space, with aggregate gross floor area of at least 625,000 square feet.

(b) Except as otherwise limited by this chapter, the authority also 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 77;
- (7) Review and approve the convention center development plan proposed by a private developer, for the Waikiki convention center district; inspect and approve development within the convention center district for compliance with convention center development plans and rules; and upon dedication of the convention center facility to the State, to manage, operate and maintain the convention center facility;
- (8) Cause a private developer to prepare plans, specifications, and designs, for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project, and from time to time to modify such plans, specifications, or designs;
- (9) 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;
- (10) Contract for and accept gifts or grants in any form from any public agency, or from any other source;
- (11) Upon the authority determining that a private developer, acting in good faith, is unable to develop the convention center facility in cooperation with the holders of any interest in property in the convention center district, and upon making a finding that the acquisition of such property interest is necessary for its use for the purposes of this chapter, may acquire the property by condemnation pursuant to chapter 101, notwithstanding any contract to the contrary; provided, however, that the valuation of any such property acquired pursuant the exercise of the authority's power under this subsection shall be done without regard to any increase or decrease in value of the property resulting from the application of this chapter. Property so acquired by condemnation shall not be subject to chapter 171. If the convention center site is acquired

partially or wholly by eminent domain action, the private developer shall reimburse to the State the sum of money equal to the just compensation or damages for the taking of the convention center site under the provisions of section 101-29;

- (12) Negotiate with the private developer for contribution by the private developer to defray costs relating to the relocation of persons displaced because of the development;
- (13) Ancillary to the development of the convention center facility, the authority shall also permit the development by the private developer of the convention center facility, hotels, condominiums, commercial, retail, and office space, and other improvements which would increase the utilization of the convention center facility; and
- (14) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter.

**§ -5 Designation of convention center district; convention center development plan.** (a) There is established the Waikiki convention center district which shall be located in Waikiki, Oahu, at the site covering the International Market Place, Coral Reef Hotel, and the Kuhio Mall comprised of those certain parcels of land more particularly identified as tax map key: 2-6-22: parcels 02, 38, and 43.

(b) The authority shall review for approval the convention center development plan of a private developer which plan shall include a convention center and other improvements proposed for development within the Waikiki convention center district. In its review of any proposed convention center development plan pursuant to this chapter, the authority shall apply the criteria of the convention center district rules and the following criteria:

- (1) The height of any building shall not exceed 400 feet;
- (2) The aggregate floor area of condominiums and hotels shall not exceed two million square feet;
- (3) The aggregate number of dwelling units shall not exceed 1,200 condominium units, or in the alternative 800 hotel units and 950 condominium units;
- (4) The aggregate floor area for commercial, retail, and office use shall not exceed 450,000 square feet;
- (5) The convention center facility, including the exhibition halls, meeting rooms, a plenary session hall, and support space, shall have not less than 625,000 square feet;
- (6) The aggregate number of parking spaces for vehicles shall not be less than 2,000 of which not less than fifty per cent of such spaces shall be located within the convention center district; and
- (7) Groundbreaking for the commencement of the development within the convention center district shall not occur before July 1, 1989.

(c) The authority may enter into cooperative agreements with qualified persons or public agencies, where the powers, services, and capabilities of such persons or agencies are deemed necessary and appropriate for review by the authority of the development of the convention center development plan.

(d) Whenever possible, the convention center development plan shall be consistent with federal, state, and county plans. Consideration shall be given to state goals and policies, adopted state plan or land use guidance policies, county general plans, development plans, and ordinances.

(e) The authority shall hold a public hearing on a proposed convention center development plan pursuant to chapter 91.

**§ -6 Convention center district rules.** The authority shall establish rules for the development within the convention center district under chapter 91 on health, safety, building, planning, zoning, and land use which, upon final approval by the

authority of a convention center development plan, shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon. The convention center development plan approved by the authority shall be made a part of, and shall have the same force and effect as, the rules aforesaid. Any development proposal within the convention center district under agreement with a private developer shall be subject to the requirements of chapter 343 relating to environmental impact statements and shall be provided for in the rules. The environmental impact statement shall include the disclosure of the environmental effects of the proposed development, effects of the proposed development on the economic and social welfare of the community and State including the welfare of persons to be dislocated by the proposed development, effects of the economic activities arising out of the proposed development, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects. Rules adopted under this section shall follow existing law, rules, ordinances, and regulations as closely as is consistent with standards meeting minimum requirements of good design, pleasant amenities, health, safety, and coordinated development.

For purposes of chapters 501, 502, and 514A, the authority may certify maps and plans of lands and real property interests within the convention center district as having complied with applicable laws and ordinances relating to consolidation, subdivision of lands, and horizontal property regimes, and such maps and plans shall be accepted for registration or recordation by the land court and registrar.

**§ -7 Agreement with private developer.** (a) The authority shall enter into an agreement with a private developer holding a property interest in the lands within the convention center district for the development and construction of the convention center and all other improvements. The agreement shall include provision for access to, or ownership of, adequate parking facilities in favor of the authority within the convention center district to accommodate the activities of the convention center facility. The development and construction of the improvements within the convention center district shall conform with the convention center development plan approved by the authority.

(b) As a condition and consideration of the right to develop the real property within the convention center district under the agreement, pursuant to this chapter, the private developer shall dedicate, at no cost to the State, a marketable real property interest in the convention center facility to the State with warranty of title free and clear of all encumbrances, subject to declaration of horizontal property regime, if any, and to such encumbrances and easements as shall be acceptable to the State. For a period of two years from the date of the dedication, the private developer shall manage, operate and maintain the convention center facility. All profit and loss for the two-year period from the management, operation and maintenance of the convention center facility shall accrue to or be suffered by the private developer. The private developer shall submit to the authority annual reports, including financial statements, covering the operations of the convention center facility by the private developer during the two year period. The private developer shall coordinate with the authority on all reservations based on requests for conventions at the convention center facility to occur on dates after the two year period. The authority shall thereafter manage, operate and maintain the convention center facility.

(c) As a further condition and consideration of the right to develop the real property within the convention center district under the agreement, pursuant to this chapter, the private developer shall pay the sum of \$5,000,000 as contribution for the payment of costs relating to the temporary or permanent relocation of existing licensees and lessees who are displaced because of the development within the

convention center district pursuant to the convention center development plan by the private developer.

Upon the approval by the authority of the relocation plan which shall be prepared and submitted by the private developer to the authority, the private developer shall deliver to the authority for deposit into the Waikiki convention center development revolving fund the said sum of \$5,000,000 in the form of a certified check, an irrevocable letter of credit, or surety bond. The sum of \$5,000,000 shall be used for the implementation of the relocation plan, provided that the sum and all interest accrued thereon shall be refunded to the private developer in the event this chapter expires and becomes null and void.

The relocation plan shall include agreement by the private developer to give every displaced licensee or lessee an unassignable right of first refusal of any license or lease of space within the convention center district developed and offered for such activities similar in size and nature of the business conducted by the licensee or lessee at the time of displacement unless such right is waived by any licensee or lessee.

The authority shall cause to be established a task force to assist in the implementation of the relocation plan. The task force shall include persons, agencies and organizations representative of government and private interests.

**§ -8 Use of public lands; acquisition of state lands.** (a) Any provision of chapter 171 to the contrary notwithstanding, the governor may set aside public lands located within the convention center development district to the authority for its use.

(b) If state lands under the control and management of other public agencies are required by the authority for its purposes, the agency having the control and management of those required lands shall, upon request by the authority and with the approval of the governor, convey or lease such lands to the authority upon such terms and conditions as may be agreed to by the parties.

(c) Notwithstanding the foregoing, no public lands shall be set aside, conveyed, or leased to the authority as above provided if such setting aside, conveyance, or lease would impair any covenant between the State or any county or any department or board thereof and the holders of bonds issued by the State or such county, department, or board.

**§ -9 Public projects.** Any project or activity of any county or agency of the State in the convention center district shall be constructed, renovated, or improved in consultation with the authority.

**§ -10 Waikiki convention center development revolving fund.** There is created the Waikiki convention center development revolving fund into which all receipts and revenues of the authority and all legislative appropriations to the revolving fund shall be deposited. Proceeds from the fund shall be used for the purposes of this chapter.

**§ -11 Exemption from taxation.** The authority shall not be required to pay assessments levied by any county, nor shall the authority be required to pay state taxes of any kind. This exemption shall apply only with respect to the real property interest of the authority within the convention center district and the business of the authority relating to the real property interest.

**§ -12 Assistance by state and county agencies.** Any state or county agency may render services upon request of the authority.

**§ -13 Declaration of public function, purpose, and necessity.** The powers and functions granted to and exercised by the Waikiki convention center authority under this chapter are declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All real and other property and privileges acquired and used by or on behalf of the State by the Waikiki

convention center authority under this chapter shall and are declared to be acquired and used for public and governmental purposes as a matter of public necessity.

**§ -14 Court proceedings; preferences; venue.** Any action or proceeding to which the authority, the State, or the county may be a party, in which any question arises as to the validity of this chapter, shall be preferred over all other civil cases, except election cases, in any court of this State and shall be heard and determined in preference to all other civil cases pending therein except election cases, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this chapter in which the authority may be allowed to intervene. In addition to the preference provided in this section, any such action or proceeding to which the authority, the State, or the county may be party, in which any question arises as to the validity of this chapter or any portion of this chapter, or any action of the authority may be filed in the supreme court of the State, which court is hereby vested with original jurisdiction over such action, and notwithstanding any provision of law to the contrary, declaratory relief may be obtained for any such action.

**§ -15 Annual report.** The authority shall submit a complete and detailed report of its activities to the governor and the legislature at least twenty days prior to the convening of each regular session of the legislature."

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000, or so much thereof as may be necessary for fiscal year 1988-1989 which shall be deposited into the Waikiki convention center development revolving fund for the establishment and expenses of the Waikiki convention center authority. The appropriation under this section may be used for the hiring of necessary staff and other expenses, but shall not be used for construction of the Waikiki convention center or any site preparation work.

The sum appropriated shall be expended by the convention center authority for the purposes of this section.

**SECTION 3.** Unless the private developer's plan for the convention center facility is approved by the authority within three years from the initial empanelling of all of the members of the Waikiki convention center authority, this Act shall automatically expire.

In the event any judicial or quasi-judicial proceeding is commenced regarding the validity of this Act or any section of this Act, or any action of the authority, the running of the three year period shall be suspended until a final nonappealable determination is made in said judicial or quasi-judicial proceeding.

**SECTION 4. Renovation of Neal Blaisdell Center.** (a) The legislature intends that the exhibition space and parking facilities of the Neal Blaisdell Center be renovated to accommodate local demand for increased exhibition, trade show, public show, and convention space.

(b) The legislature declares that the renovation of the Neal Blaisdell Center is necessary to increase the operational efficiency and effectiveness of the Hawaii convention center by allowing the Waikiki convention center authority to concentrate its efforts on the establishment, operation, and management of a convention center.

(c) To implement the intent under this section, there is appropriated out of the general revenues of the State of Hawaii the sum of \$13,000,000 as a grant-in-aid to the city and county of Honolulu for fiscal year 1988-89. The sum appropriated under this section shall be expended by the city and county of Honolulu.

**SECTION 5.** In the event any provision of this Act is determined to be unconstitutional, the remaining provisions of this Act shall remain in full force and effect.



## **ACT 96**

SECTION 6. This Act shall take effect upon its approval.

(Approved May 24, 1988.)