

ACT 7

H.B. NO. S7-93

A Bill for an Act Relating to a Convention Center.

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

PART I.

SECTION 1. The legislature finds that existing convention facilities in Hawaii are inadequate for the needs of many convention groups. The legislature declares that any convention center facility should be centrally located within or near Waikiki to best address the needs of prospective conventioners, and that the most appropriate existing sites are what is popularly known as the Aloha Motors site and what is popularly known as the Ala Wai golf course site. These sites are located near the visitor hub of Waikiki, surrounded by several major hotels and in walking distance from many other hotels. In this context, a convention center is presented with the capacity to act in synergism with the surrounding uses. Building a convention center facility at either of these sites would serve the purpose of providing an easily accessible convention center.

The legislature finds that the public interest requires the construction of a convention center facility at either of the above-named sites.

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

“§206X- General criteria for development of a convention center. The following criteria shall apply to any convention center facility built or developed in any convention center district:

- (1) The convention center facility shall be a stand-alone facility, without additional private development on-site;
- (2) The convention center facility shall be owned and operated by the authority;
- (3) The flexible meeting rooms, ballrooms, and support space shall consist of a minimum of 675,000 gross square feet, of which a minimum of 200,000 gross square feet shall be exhibit space; provided that the exhibit space and related support space shall be on a single level with direct vehicle access to the exhibit floor;
- (4) The convention center facility shall be designed and developed to accommodate future expansion; and
- (5) The convention center facility shall reflect a Hawaiian sense of place.”

SECTION 3. Section 46-11, Hawaii Revised Statutes, is amended to read as follows:

“§46-11 Federal flood insurance. The convention center authority in regard to the convention center district and the mayor or executive officer and the council of the various counties, in regard to the respective counties, may participate and apply on behalf of their respective district and counties for flood insurance coverage pursuant to any applicable provisions of Public Law 1016, Eighty-fourth Congress, Second Session, (70 Stat. 1078). [They] The convention center authority, in regard to the convention center district, and the mayor or executive officer and the council of the various counties, in regard to the respective counties, shall be vested with the functions, powers, and duties which are necessary to enable their respective district and counties to qualify, participate, and apply for the flood insurance coverage.”

SECTION 4. Section 206X-5, Hawaii Revised Statutes, is amended to read as follows:

“§206X-5 [Designation of convention center district; convention] Convention center development plan. [(a) The authority shall conduct a survey of potentially appropriate sites both in Waikiki; and other areas in the State and a study of criteria for development within a convention center district and report to the legislature not less than twenty days prior to the convening of the regular session of 1993 with an update of its recommendations of appropriate sites and criteria for development to be approved by the legislature.

(b)] (a) The authority shall review for approval the convention center development plan of a developer which shall include a convention center and other improvements proposed for development within the 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 any criteria for development within the convention center district established by the legislature.

[(c)] (b) 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)] (c) 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.]”

SECTION 5. Section 206X-6, Hawaii Revised Statutes, is amended to read as follows:

“§206X-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, land development, and flood plain management, including mitigation and permitting, 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,] health, safety, building, planning, zoning, [planning, and development of land and construction thereon.] land use, land development, and flood plain management, including mitigation and permitting, and provision of access and utilities thereto. 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 boundaries of the Waikiki special design district and within the designated convention center district under agreement with a 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[.], and accomplishment of the purposes of this chapter.

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 condominium property regimes, and such maps and plans shall be accepted for registration or recordation by the land court and registrar.”

SECTION 6. Section 206X-8, Hawaii Revised Statutes, is amended to read as follows:

“**[§206X-8]** **Use of public lands[; acquisition of state lands].** [(a)] Any provision of chapter 171 to the contrary notwithstanding, the governor may set aside, transfer, convey, or lease public lands [located within the convention center development district] wherever situated and whether or not set aside to any department or agency of the State or any political subdivision of the State, 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.]”

SECTION 7. The convention center authority established by section 206X-3, Hawaii Revised Statutes, is authorized to negotiate with the appropriate person for the purchase of the undeveloped Aloha Motors site. The purchase price of the site, and any other lands acquired by any means in connection with the development of the convention center, together with convention center development costs, including the cost to construct the convention center, shall not exceed \$350,000,000.

The negotiations shall result in a binding agreement for the purchase and sale of the undeveloped Aloha Motors site, which negotiations, binding agreement, and purchase and sale shall be specifically exempt from the requirements of chapter 343. The binding agreement shall require transfer of the land by deed with full warranty of title free and clear of all liens and subject to only such encumbrances and easements as shall be acceptable to the State.

Upon the execution of a binding agreement, the Aloha Motors site is designated to be the convention center district.

The binding agreement pursuant to this section shall be executed by the convention center authority and the appropriate person with respect to the Aloha Motors site by 11:59 p.m. on the sixtieth calendar day following the approval of this Act or if the sixtieth calendar day falls on a Saturday, Sunday, or state holiday, by 11:59 p.m. on the weekday immediately following the sixtieth calendar day; provided that any period of time during which a court with appropriate jurisdiction has enjoined negotiations or agreement shall not be included in the computation of the sixty-day period.

For purposes of this Act, the Aloha Motors site is defined as that parcel of land consisting of approximately 9.67 acres and more particularly identified as tax map key 2-3-35:1, 2, 4, 5, 8, 10, and tax map key 2-3-36:18, 24, 25.

SECTION 8. In the event of the repeal of SECTION 7 of this Act pursuant to SECTION 32 of this Act, the Ala Wai golf course site is designated to be the convention center district and the convention center authority shall exercise its powers to effectuate the development of a convention center facility at the Ala Wai golf course site upon the transfer of the use and control of the Ala Wai golf course site to the convention center authority pursuant to section 46-65.7, Hawaii Revised Statutes. For purposes of this Act, the Ala Wai golf course site is defined as that parcel of land consisting of approximately 16.0 acres generally situated at the Ewa portion of the Ala Wai golf course and being a portion of that parcel of land more particularly identified as tax map key 2-7-36:2.

Upon the designation of the Ala Wai golf course site as the convention center district, the governor is authorized to transfer the use, operation, and control of the Kapolei golf course to the city and county of Honolulu; provided that the transfer shall be made only if the city and county of Honolulu agrees to accept the transfer. For purposes of this Act, the Kapolei golf course is defined as that parcel of land more particularly identified as tax map key 9-1-16: por. 35.

If development of a convention center facility at the Ala Wai golf course site is effectuated pursuant to this section, then watershed management activities shall be implemented to carry out the clean up and maintenance of the Ala Wai canal.

The purchase price of the site and any other lands acquired by any means in connection with the development of the convention center, together with convention center development costs, including the cost to construct the convention center, shall not exceed \$350,000,000, including, but not limited to the cost of the transfer of the Kapolei golf course and the clean up of the Ala Wai canal.

SECTION 9. Section 46-65.7, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§46-65.7]]~~ **Ala Wai golf course.** The fair commission of Hawaii is abolished and the functions and authority of the fair commission of Hawaii relating to the Ala Wai golf course are transferred to the city and county of Honolulu, together with the use and control of all lands, property, and facilities under its jurisdiction; provided that the lands, property, and facilities shall be used for the purposes of operating a municipal golf course; and provided further that the governor may by executive order transfer the use and control of the lands, property, and facilities or any part of the lands, property, and facilities to the appropriate department or agency of the State designated by the governor upon the giving of [one year's] six months written notice before the date of the transfer back to the State to the city and county of Honolulu.”

SECTION 10. The convention center authority shall provide for construction of the convention center utilizing a request for proposals process.

PART II.

SECTION 11. **Findings and purpose.** The legislature finds that convention organizers from around the country have bypassed Hawaii for other destinations because the State lacks the facilities to house these participants, sessions and workshops, and displays in a professional manner. The loss of convention-related business to other destinations could have long-lasting and far-reaching impacts on the State, not only on Oahu but on the neighbor islands as well, since

Hawaii's economy is heavily dependent on the tourist trade generated by these conventions.

It is necessary for the State and the counties to make certain sacrifices today in order to build a world-class convention center, and ensure Hawaii's place as one of the world's prime visitor destinations tomorrow. The State and the counties will benefit from future increases in convention-related business, which will add an estimated \$335,000,000 a year in new tax revenues. Conversely, future decreases in convention-related business because of the lack of a convention center will result in less revenues being generated through the general excise tax and transient accommodations tax and less moneys for the State and the counties alike.

The transient accommodations tax is derived primarily from visitors from outside of the State and convention travelers comprise a significant portion of these visitors. The legislature finds that a convention center would stimulate economic activity in the visitor industry and the resulting increase in revenue from the transient accommodations tax and the general excise tax will be substantially attributable to the presence of a convention center. The legislature further finds that the construction and operation of a convention center are crucial to the economic well-being of the State and the counties and are for a public purpose.

The revenue bonds issued by the authority to finance the convention center are to be repaid entirely from the convention center capital and operations special fund. This special fund is funded by revenues from the transient accommodations tax and operations of the convention center. The transient accommodations tax is substantially derived from a function of the convention center to increase and maintain sales of hotel rooms and other transient accommodations.

SECTION 12. Chapter 206X, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§206X- Convention center capital and operations special fund.

(a) There is established in the state treasury the convention center capital and operations special fund, into which shall be deposited:

- (1) A portion of the revenues from the transient accommodations tax, as provided by section 237D-6.5;
- (2) All revenues derived from the operations of the convention center;
- (3) All or a portion of all revenues derived from the operation of parking and garage facilities and other concessions at the convention center;
- (4) All proceeds from revenue bonds issued by the authority; and
- (5) Appropriations by the legislature to the convention center capital and operations special fund.

(b) In addition to the powers of the authority specified in section 206X-4, the authority may:

- (1) Define, through rules adopted in accordance with chapter 91, the term “revenues derived from the operations of the convention center” or like terms; and
- (2) Do any and all things deemed necessary to administer the convention center capital and operations special fund.

(c) Moneys in the convention center capital and operations special fund may be placed in interest-bearing accounts or otherwise invested by the authority until such time as the moneys may be needed. All interest accruing from the investment of these moneys shall be credited to the convention center capital and

operations special fund.

(d) Moneys in the convention center capital and operations special fund shall be used by the authority for the following purposes:

- (1) Planning, design, improvement, construction, land acquisition, equipment, and furnishing necessary for the development or maintenance of a convention center;
- (2) Constructing, operating, maintaining, and improving the convention center and any public facilities related thereto;
- (3) Payment of debt service on revenue bonds issued by the authority for purposes of the convention center, establishment of debt service and other reserves deemed necessary by the authority or the State, and reimbursement of the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for purposes of the convention center; and
- (4) Any other purpose deemed necessary by the authority for the purpose of planning, improving, developing, operating, and maintaining the convention center facility."

SECTION 13. Section 206X-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Convention center facility" or "convention center" means any combination of land, buildings, and improvements thereon, suitable for use as a convention center; any other structure or facility required or useful for the operation of a convention center facility, including, but not limited to, commercial, office, community service, parking, garage, and other supporting service structures; and all necessary, useful, and related equipment, furnishings, and appurtenances."

SECTION 14. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

"§36-27 Transfers from special funds for central service expenses. Except as hereinafter provided, and notwithstanding any provisions of any other law to the contrary, there shall be deducted from time to time by the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the special summer school fund under section 298-3.5; the school cafeteria special funds of the community colleges[,] and the department of education; the special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii; [and] the state educational facilities improvement special fund[.]; and the convention center capital and operations special fund, five per cent of all receipts of each such special fund, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers."

SECTION 15. Section 206X-2, Hawaii Revised Statutes, is amended by amending the definition of "developer" to read:

"Developer" means any person, partnership, cooperative, firm, nonprofit or for-profit corporation, or public agency possessing the competence, expertise, experience, and resources, including financial, personal, and tangible resources,

required to [carry out] effectuate, directly or through other developers, the development of a convention center[.], including planning, design, and construction.”

SECTION 16. Section 206X-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(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] Adopt rules in accordance with chapter 91 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 developer, for the convention center district; inspect and approve development within the convention center district for compliance with convention center development plans and rules; and upon [dedication] construction of the convention center facility [to the State, to], manage, operate, and maintain or enter into contracts for the professional management, operation, and maintenance of the convention center facility;
 - (8) Cause a 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; provided that the plans, specifications, or designs shall be subject to review and approval by the authority;
 - (9) Procure insurance against any loss and any liability in connection with [its property] the convention center and other related 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 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] request of the authority and the approval of the governor, condemn any real property [interest is] interests as the authority deems necessary for [its use for the purposes of this chapter, may acquire the property by condemnation] the development of a convention center pursuant to chapter 101[, notwithstanding any contract to the contrary]; provided[, however,] that the valuation of any such property acquired pursuant to the exercise of the authority’s power under this subsection shall be done without regard to any increase or decrease in the 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 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 developer for contribution by the 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, permit the development by the 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;
- (14)] (13) On behalf of the State, accept the authority to operate, manage, and maintain the convention center facility upon [its dedication to the State;] provided that it deems this action to be in the best interest of the State;] completion or acquisition of such facility;
- [(15)] (14) Issue revenue bonds, subject to the approval of the legislature. All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this [chapter]. [The] All revenue bonds shall be issued in the name of the authority and not in the name of the State. The final maturity date of the revenue bonds may be any date not exceeding thirty years from the date of issuance;
- [(16) If [section 9, Act 159, Session Laws of Hawaii 1992, enacting the Waikiki task force] becomes effective, assist the Waikiki task force established thereby, whenever the task force considers convention center matters; and]
- (15) Pledge or assign all or any part of the receipts and revenues of the authority;
- (16) Set and collect rents, fees, charges, or other payments for the lease, use, occupancy, or disposition of the convention center facility acquired, constructed, or reconstructed by the authority pursuant to this chapter;
- (17) Acquire, lease as lessee or lessor, own, rent, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter;
- (18) Acquire by purchase, lease, or otherwise, and develop, construct, operate, own, manage, repair, reconstruct, enlarge, or otherwise effectuate, either directly or through developers, a convention center;
- (19) Reimburse the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for purposes of the convention center;
- [(17)] (20) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter[.]; and
- (21) By itself, or in combination or association with qualified persons, by any form of request for proposals, as determined by the authority, any law to the contrary notwithstanding, solicit, accept, review, reject, modify, or approve proposals, and thereafter enter into agreements, for a convention center development plan, and for the initiation, undertaking, supervision and regulation of the design,

development, financing, operation and maintenance of a convention center facility and any related developments.”

SECTION 17. Section 206X-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) As a further condition and consideration of the right to develop the real property within the convention center district under the agreement[,] and pursuant to this chapter, the developer shall pay a reasonable sum determined by the authority as contribution for the payment of costs relating to:

- (1) The temporary or permanent relocation of existing licensees and lessees, if any, who are displaced because of the development within the convention center district pursuant to the convention center development plan by the developer; or
- (2) Settlement payments in lieu of payments provided under paragraph (1) to existing licensees and lessees, if any, who are displaced by the developer because of the development within the convention center district pursuant to the convention center development plan; provided that each displaced licensee or lessee shall have the option to select either relocation or a settlement payment.

Upon the approval by the authority of the relocation plan, which shall be prepared and submitted by the developer to the authority, the developer shall deliver to the authority for deposit into the convention center [development revolving] capital and operations special fund the sum determined by the authority in the form of a certified check, an irrevocable letter of credit, or surety bond. The sum determined by the authority shall be used for the implementation of the relocation plan[.]; provided that the sum and all interest accrued thereon shall be refunded to the developer in the event this chapter expires and becomes void.

The relocation plan shall include an agreement by the developer to give every displaced licensee or lessee who does not elect to receive a settlement payment under paragraph (2) an unassignable right of first refusal of any license or lease of space within the convention center district developed and offered for [such] those activities similar in size and nature to the business conducted by the licensee or lessee at the time of displacement, unless [such] this right is waived by any licensee or lessee.

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

SECTION 18. Section 237D-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is levied and shall be assessed and collected each month a tax of five per cent for the period beginning on January 1, 1987, to June 30, 1994, and a tax of six per cent for the period beginning July 1, 1994, and thereafter, on the gross rental or gross rental proceeds derived from furnishing transient accommodations.”

SECTION 19. Section 237D-6.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~§237D-6.5~~]]~~ **Remittances; distribution to counties.** (a) All remittances of taxes imposed under this chapter shall be made by cash, bank drafts,

cashier's check, money order, or certificate of deposit to the office of the taxation district to which the return was transmitted.

(b) For the fiscal year beginning July 1, 1990, and for each fiscal year thereafter, until June 30, 1994, revenues collected under this chapter shall be distributed as follows: five per cent of the revenues collected under this chapter shall be retained by the State [to be used for the costs of assessment, collection, and disposition of the transient accommodations taxes under this chapter]. Of the remainder, Kauai county shall receive 14.5 per cent; Hawaii county shall receive 18.6 per cent; city and county of Honolulu shall receive 44.1 per cent; and Maui county shall receive 22.8 per cent.

For the fiscal year beginning July 1, 1994, and for each fiscal year thereafter, revenues collected under this chapter shall be distributed as follows:

- (1) One-sixth of the revenues collected under this chapter shall be deposited into the convention center capital and operations special fund;
- (2) Of the remaining revenues, five per cent shall be retained by the State; and
- (3) Of the remainder, Kauai county shall receive 14.5 per cent; Hawaii county shall receive 18.6 per cent; city and county of Honolulu shall receive 44.1 per cent; and Maui county shall receive 22.8 per cent.

All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection, and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection[; provided that, all taxes levied and assessed under this chapter for periods before July 1, 1990, but collected after June 30, 1990, shall be state realizations].

(c) On or before January or July 1 of each year or after the disposition of any tax appeal with respect to an assessment for periods after June 30, 1990, the state director of finance shall compute and pay the amount due as provided [for] in subsection (b) to the director of finance of each county to become a general realization of the county expendable as such, except as otherwise provided by law."

SECTION 20. Section 206X-10, Hawaii Revised Statutes, is repealed.

SECTION 21. The director of finance shall transfer to the credit of the convention center capital and operations special fund on the effective date of this Act, all unexpended or unencumbered balances remaining in the convention center development revolving fund scheduled for repeal on the effective date of this Act.

SECTION 22. There is appropriated out of the convention center capital and operations special fund the sum of \$150,000, or so much thereof as may be necessary for fiscal year 1993-1994, to be expended by the authority for the purposes of this Act.

SECTION 23. The director of finance is authorized to issue general obligation bonds or reimbursable general obligation bonds, or any combination thereof in the aggregate principal amount of \$350,000,000 or so much thereof as may be necessary, and the same amount, or so much thereof as may be necessary, is appropriated for fiscal years 1993-1994, and 1994-1995, to be expended by the authority for the purposes of this Act, including, without limitation, the financing and refinancing of all or any part of the cost of planning, designing, improving, acquiring, constructing, equipping, or furnishing the convention center facility

authorized in this Act; the financing of any public facilities related thereto that are capable of being financed with the proceeds of the bonds, and the payment of interest on such bonds that will accrue during the construction period and for six months thereafter.

SECTION 24. The authority, with the approval of the director of finance and the governor, is authorized to issue revenue bonds in an aggregate principal amount of \$350,000,000, or so much thereof as may be necessary, and the same amount, or so much thereof as may be necessary, is appropriated for fiscal years 1993-1994, and 1994-1995, from moneys in the convention center capital and operations special fund, to be expended by the authority for the purposes of this Act, including, without limitation, the financing and refinancing of all or any part of the cost of planning, designing, improving, acquiring, constructing, equipping, or furnishing the convention center facility authorized in this Act; the financing of any public facilities related thereto that are capable of being financed with the proceeds of the bonds, and the payment of interest on such bonds that will accrue during the construction period and for six months thereafter.

SECTION 25. There is appropriated out of the convention center capital and operations special fund the sum of \$4,125,000, or so much thereof as may be necessary for fiscal year 1993-1994, and the sum of \$8,250,000, or so much thereof as may be necessary for fiscal year 1994-1995, to be expended by the authority to pay for debt service on revenue bonds issued by the authority and to reimburse the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for purposes of the convention center.

SECTION 26. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,125,000, or so much thereof as may be necessary for fiscal year 1993-1994, and the sum of \$8,250,000, or so much thereof as may be necessary for fiscal year 1994-1995, to be expended by the department of budget and finance to pay for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for purposes of the convention center.

SECTION 27. The state supreme court shall have exclusive and original jurisdiction over any controversy or dispute regarding the financing of the convention center through the issuance of revenue bonds, general obligation bonds, and reimbursable general obligation bonds, and the security provisions therefor, and the imposition and collection of the transient accommodations tax to repay or provide security for the bonds; provided that such jurisdiction be limited to the applicability of Article VII of the Constitution of the State of Hawaii to such matters.

PART III.

SECTION 28. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, section 13, of the State Constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be

exceeded at the time of issuance,” the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the State is set forth in Article VII, section 13, of the State Constitution, which states in part: “General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance.” Article VII, section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including “reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year” and “bonds constituting instruments of indebtedness under which the State or any political subdivision incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under this section.”
- (2) Actual and estimated debt limits. The limit on principal and interest on general obligation bonds issued by the State, actual for fiscal year 1992-93 and estimated for each fiscal year from 1993-94 to 1996-97, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1989-90	\$2,418,273,831	
1990-91	2,654,706,036	
1991-92	2,672,238,596	
1992-93	2,773,716,000	\$477,621,805
1993-94	2,779,671,000	499,540,739
1994-95	2,910,923,000	507,246,912
1995-96	3,099,945,000	521,965,783
1996-97	(Not Applicable)	542,083,238

For fiscal years 1992-93, 1993-94, 1994-95, 1995-96, and 1996-97 respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half percent. The net general fund revenues for fiscal years 1989-90, 1990-91, and 1991-92 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1992, dated December 1, 1992. The net general fund revenues for fiscal years 1992-93 to 1995-96 are estimates, based on general fund revenue estimates made as of April 15, 1993, by the council on revenues, the body assigned by Article VII,

section 7, of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. (A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by Article VII, section 13, of the State Constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of July 1, 1993, is as follows for fiscal year 1993-94 to fiscal year 1999-2000:

Fiscal Year	Principal and Interest
1993-94	\$285,166,913
1994-95	317,338,889
1995-96	361,199,046
1996-97	326,344,538
1997-98	299,295,544
1998-99	269,080,899
1999-2000	264,411,466

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit generally continues to decline each year from fiscal year 2000-2001 to fiscal year 2012-13 when the final installment of \$25,889,838 shall be due and payable. (B) The department of budget and finance further reports that the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$222,600,000, part of which is excludable in determining the power to the State to issue general obligation bonds, pursuant to Article VII, section 13, of the State Constitution.

- (4) Amount of authorized and unissued general obligation bonds and guaranties and proposed bonds and guaranties. (A) As calculated from the state comptroller's bond fund report as of March 31, 1993, adjusted for (1) appropriations to be funded by general obligation bonds as provided in Act 35, Session Laws of Hawaii 1993, in the amount of \$136,500,000; (2) lapses as provided in Act 289, Session Laws of Hawaii 1993 (the General Appropriations Act of 1993) amounting to \$6,526,821; (3) lapses as provided in Act 277, Session Laws of Hawaii 1993 (the Judiciary Appropriations Act of 1993) amounting to \$38,387,000; and (4) the issuance of \$130,245,000 general obligation bonds of 1993, Series BE, the total amount of authorized but unissued general obligation bonds is \$347,070,798. The total amount of general obligation bonds authorized by this Act is \$350,000,000. The findings and declaration of the legislature regarding this sum was also made in House Bill No. S1-93 (Relating to State Bonds) passed by this Special Session of 1993. The amount of general obligation bonds authorized by this Act does not result in an increase in general obligation bonds authorized in House Bill No. S1-93. The total amount of general obligation bonds previously

authorized and unissued and the general obligation bonds authorized by this Act is \$1,396,717,596. (B) As reported by the department of budget and finance, the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$222,600,000, part of which is excludable in determining the power to the State to issue general obligation bonds, pursuant to Article VII, section 13, of the State Constitution.

- (5) Proposed general obligation bond issuance. As reported herein for fiscal years 1992-93, 1993-94, 1994-95, 1995-96, and 1996-97, the State proposes to issue \$350,000,000 during the first half of fiscal year 1993-94, \$237,500,000 during the second half of fiscal year 1993-94, and \$100,000,000 in each half of fiscal year 1994-95, \$200,000,000 during the first half of fiscal year 1995-96, \$212,500,000 during the second half of fiscal year 1995-96, and \$100,000,000 in each half of fiscal year 1996-97. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal installments of principal, and interest payments commencing six months from the date of issuance and being paid semiannually thereafter. It is assumed that this practice will continue to be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during the fiscal years 1992-93 to 1995-96 is \$1,200,000,000. An additional \$200,000,000 is proposed to be issued in fiscal year 1996-97. The total amount of \$1,200,000,000 which is proposed to be issued through fiscal year 1995-96 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is \$1,396,717,596, as reported in paragraph (4), except for \$196,717,596. It is assumed that the appropriations to which an additional \$196,717,596 in bond issuance needs to be applied will have been encumbered as of June 30, 1996. The \$200,000,000 which is proposed to be issued in fiscal year 1996-97 will be sufficient to meet the requirements of the June 30, 1996, encumbrances in the amount of \$196,717,596. The amount of assumed encumbrances as of June 30, 1996, is reasonable and conservative. Thus, taking into account the amount of authorized and unissued bonds, as adjusted, and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1996, and the amount of June 30, 1996, encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1996-97, the legislature finds that in the aggregate, the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.
- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. (A) General obligation reimbursable bonds can be excluded under

certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:

- (i) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
- (ii) Not all reimbursable bonds may qualify for exclusion.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, according to the department of budget and finance, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is 8.7 percent for the ten years from fiscal year 1993-94 to fiscal year 2002-2003. For the purpose of this declaration, the assumption is made that five percent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative. (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guaranties does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of this paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under Article VII, section 13, of the State Constitution for the fiscal years 1993-94, 1994-95, 1995-96, and 1996-97 are as follows:

Fiscal Year	Total Amount of General Obligation Bonds Not Otherwise Excluded by Article VII, Section 13, of the State Constitution
1993-94	\$2,947,712,065
1994-95	2,949,933,228
1995-96	3,087,163,098
1996-97	3,025,309,239

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven percent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided by, can be excluded in determining the power of the State to issue general obligation

bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to an actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to Article VII, section 13, of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on such assumptions and on the determination in paragraph (8), the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which must be included in determining the power of the State to issue general obligation bonds is \$12,427,666.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of 7.5 percent, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, general obligation bonds and instruments of indebtedness under which the State incurs a contingent liability as a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of such issuance:

Time of Issuance and Amount to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties
1st half FY 1993-94 \$332,500,000	499,540,736	398,564,212 (FY 1995-96)
2nd half FY 1993-94 \$225,625,000	499,540,736	415,486,087 (FY 1995-96)
1st half FY 1994-95 \$95,000,000	507,246,912	422,611,087 (FY 1995-96)
2nd half FY 1994-95 \$95,000,000	507,246,912	429,736,087 (FY 1995-96)
1st half FY 1995-96 \$190,000,000	521,965,783	439,451,618 (FY 1996-97)
2nd half FY 1995-96 \$201,875,000	521,965,783	454,592,243 (FY 1996-97)
1st half FY 1996-97 \$95,000,000	542,083,238	442,708,200 (FY 1997-98)
2nd half FY 1996-97 \$95,000,000	542,083,238	449,833,200 (FY 1997-98)

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act and for all bonds authorized and unissued and calculated for all bonds issued and outstanding and guaranties, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 29. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in this Act and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed \$350,000,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-16, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

PART IV.

SECTION 30. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity shall 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 31. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 32. This Act shall take effect upon its approval; provided that SECTION 7 of this Act is repealed if the convention center authority and the appropriate person with respect to the Aloha Motors site have not executed the binding agreement in accordance with the provisions of SECTION 7 of this Act.

(Approved October 4, 1993.)

Note

1. Edited pursuant to HRS §23G-16.5.