

ACT 173

S.B. NO. 1702

A Bill for an Act Relating to High Technology.

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

SECTION 1. Chapter 206M, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . HIGH TECHNOLOGY INNOVATION CORPORATION

§206M-A Establishment of the high technology innovation corporation; purpose. (a) There is established, as a body corporate, the high technology innovation corporation. The high technology innovation corporation shall be a public, not-for-profit organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The high technology innovation corporation shall be attached to the department of business, economic development, and tourism for administrative purposes.

(b) The purpose of the high technology innovation corporation shall include, but not be limited to, the facilitation of the growth and development of the commercial high technology industry in Hawaii. Its duties shall include, but not be limited to:

- (1) Managing the assets and resources of the high technology development corporation, including its technology parks and incubation facilities;
- (2) Planning, creating, and implementing any programs and projects of the high technology development corporation that shall be assigned to the high technology innovation corporation, including federally- and state-funded programs and projects and those programs funded by other nonprofit and for-profit organizations;
- (3) Identifying and obtaining funding and other resources in support of the purposes of the high technology innovation corporation and the high technology development corporation from agencies and organizations not able to provide resources directly to the high technology development corporation;
- (4) Assisting the high technology development corporation in the promotion and marketing of Hawaii as a location for commercial high technology activity; and
- (5) Assisting the high technology development corporation in any other strategic or operational manner that supports the state's technology-based economic development activities.

(c) The high technology innovation corporation shall implement this purpose by:

- (1) Furnishing the means, methods, and agencies by which the management, programming, training, investigation, research, and analysis may be conducted;
- (2) Other means to make the benefits of programming, training, investigation, research, and analysis available to the public; and
- (3) Any and all other acts reasonably designed to promote the foregoing purposes in the interest of promoting the general welfare of the people of the State.

The high technology innovation corporation shall have the sole right to provide the foregoing services and support to the high technology development corporation, and the high technology development corporation shall use the high technology innovation corporation to provide these services and support in every case, except when the high technology development corporation determines that the high technology innovation corporation may not or cannot legally or operationally provide these services and support.

§206M-B Board of directors; composition. (a) The affairs of the high technology innovation corporation shall be under the general management and control of a board of directors consisting of nine members. Four members of the board of directors of the high technology development corporation shall be ex officio, voting members of the high technology innovation corporation's board and shall be selected by the high technology development corporation's board of directors for terms to be determined by the high technology development corporation's board. The executive director and chief executive officer of the high technology development corporation shall serve as an ex officio, nonvoting member of the high technology innovation corporation board. The remaining four members shall be appointed by the governor from lists of nominees provided by the president of the senate and the speaker of the house of representatives. The governor shall appoint two persons from the list submitted by the president of the senate and two persons from the list submitted by the speaker of the house of representatives. The lists of

nominees provided by the president of the senate and the speaker of the house of representatives shall consist of members of the general public 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, information technology and telecommunications, life sciences, and other high technology fields. All the members appointed from the general public shall serve for a term of four years, except that half of those initially appointed from the public may have reduced terms in accordance with section 26-34, so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year, with each term commencing on July 1 and expiring on June 30.

(b) All members of the high technology innovation corporation's board shall serve without pay, but shall be entitled to reimbursement for necessary expenses, including travel expenses, while attending meetings and while in the discharge of duties and responsibilities.

(c) The members of the high technology innovation corporation's board shall elect the chairperson of the board.

§206M-C Powers of the board. The high technology innovation corporation, under the direction of its board of directors, shall have the following general powers:

- (1) To adopt, amend, and repeal bylaws governing the conduct of its business and the exercise of the powers and performance of duties granted to or imposed upon it by law;
- (2) To sell, lease, rent, hold, maintain, use, and operate any property, real, personal, or mixed, tangible or intangible, in accordance with the conditions under which it was received;
- (3) To enter into and perform contracts, leases, cooperative agreements, or other transactions with the high technology development corporation or any other agency or political subdivision of the State, any private person, firm, partnership, association, company, or corporation, only as it may be necessary in the conduct of its business and on terms as it may deem appropriate; provided that the high technology innovation corporation shall not obligate any funds of the State except funds that have been appropriated to it by the legislature or transferred or contracted to it by the high technology development corporation or other agency or department of the state government. Notwithstanding the foregoing, the high technology innovation corporation may enter into and perform contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, a foreign nation, a state, a territory or a possession, or with any political subdivision thereof, whenever the donating or granting agency or instrumentality determines that the high technology development corporation or any other agency of the State cannot as effectively and efficiently accomplish the purposes for which the contracts, leases, cooperative agreements, or other transactions are being entered into; provided that the high technology innovation corporation shall not obligate any funds of the State except funds that have been appropriated or transferred to it or contracted for it;
- (4) To receive by gifts, grants, devises, bequests, or otherwise, from private sources only, any property, real, personal, or mixed, intangible or tangible, absolutely or in trust, to be used and disposed of, either the principal or the income therefrom, in accordance with the conditions under which it was received; provided that no gift to the high technology innovation corporation shall be accepted unless approved or confirmed by its board of directors. Notwithstanding the foregoing, the

high technology innovation corporation may receive gifts, grants, or awards from any agency or instrumentality of the United States, a foreign nation, a state, a territory or a possession, or from any political subdivision thereof, whenever the donating or granting agency or instrumentality determines that the high technology development corporation or any other agency of the State cannot as effectively and efficiently accomplish the purposes for which the gifts, grants, or awards are being made; provided that no gift to the high technology innovation corporation shall be accepted unless approved or confirmed by its board of directors;

- (5) To have a corporate seal;
- (6) To sue and be sued in its own name;
- (7) To serve as trustee or beneficiary under terms of any gift, indenture, or will;
- (8) To apply for, take out, receive by purchase or gift, hold, administer, and dispose of copyrights, patent rights, licenses, assignments of inventions, discoveries, processes, and other property, rights or interests therein, and the income thereof, absolutely or subject to conditions or trusts as may be attached thereto or be imposed thereon, and to obligate itself to perform and execute any and all conditions or trusts;
- (9) To conduct programs, projects, research, studies, experiments, investigations, and tests in all fields of knowledge; to promote and develop the scientific and commercial value of inventions, discoveries, and processes; and to make, publish, and distribute the results thereof;
- (10) To coordinate and correlate activities and projects of the high technology innovation corporation with the work of state agencies for the purpose of relating research work to the economic development of the state whenever practical or desirable;
- (11) To stimulate and promote cooperative research projects and activities;
- (12) To establish and maintain, or to assist in establishing and maintaining staff positions for the purpose of aiding in technology-based economic development, and to enter into agreements or contracts with other corporations, organizations, institutions, or persons for this purpose and to pay the necessary and appropriate expenses therefor;
- (13) To prepare, print, or publish any manuscript, research article, report, study, discussion, reference, collection, or any pictorial or schematic representation or group or collection thereof, whether the same belongs to or is the work of any state agency or its employees, or the high technology innovation corporation or its employees or a contractor of the high technology innovation corporation. The printing or publication may be accomplished through whatever person, company, or agency is deemed most appropriate by the board of directors; and
- (14) To do any or all other acts reasonably necessary to carry out the objects and purposes of the high technology innovation corporation.

§206M-D Innovation corporation; exempted from certain state laws. To carry out the purposes and objectives of this part, the high technology innovation corporation shall be granted flexibility in hiring its personnel and in handling and disbursing moneys by being exempt from the following state laws in the Hawaii Revised Statutes:

- (1) Sections 36-27 and 36-30, relating to special fund reimbursements to the state general fund;
- (2) Section 78-1, relating to public employment; and
- (3) Chapter 76, relating to civil service.

§206M-E Officers and employees of the innovation corporation. The executive director and chief executive officer of the high technology development corporation shall be the president of the high technology innovation corporation. The high technology innovation corporation's board of directors may also appoint other officers and employees as may be necessary in administering the affairs of the high technology innovation corporation. The high technology innovation corporation's board of directors shall set the employees' duties, responsibilities, salaries, holidays, vacations, leaves, hours of work, and working conditions and may grant other benefits as it deems necessary. New employees of the innovation corporation shall not be entitled to any benefits conferred under chapter 76, 78, 88, or 89, or any public employee collective bargaining agreement, executive order, executive directive, or rule; provided that any existing officer or employee of the State whose functions are transferred by this part shall not suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this part.

§206M-F Annual report. The high technology innovation corporation shall submit an annual report, not later than twenty days prior to the convening of each regular session, to the governor, president of the senate, and the speaker of the house of representatives. The report shall include but not be limited to the high technology innovation corporation's audited financial statement, total amount of payroll and other disbursements made, and progress and accomplishments made during the year.

§206M-G Dissolution. If the high technology innovation corporation is dissolved, all of its property, real, personal, and mixed and wheresoever situated, shall vest immediately and absolutely in the high technology development corporation, and none of its property shall inure to the benefit of any officer, director, or member of the high technology innovation corporation.

§206M-H Patents, copyrights, and other rights. Any patents, copyrights, inventions, discoveries, or other rights arising from high technology innovation corporation activities shall belong to the high technology innovation corporation and be subject to policies or rules as the high technology innovation corporation board of directors may adopt.

§206M-I Contracts with state agencies. Any contract between the high technology innovation corporation and any agency, office, department, or other administrative subdivision of the executive branch of the State shall include the following:

- (1) Its termination date;
- (2) Its intent and purpose;
- (3) A statement establishing the full permissible extent of its applicability; and
- (4) A description of the circumstances under which it may be amended or extended."

SECTION 2. In codifying the new sections added by section 1 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 3. This Act shall take effect upon its approval.

(Approved June 29, 2005.)