

ACT 231

H.B. NO. 1505

A Bill for an Act Relating to State Facilities.

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

SECTION 1. The legislature finds that Hawaii's economy is still recovering from the recession that struck the United States in the latter half of 2008. A weak economy severely reduced all forms of revenue collected by the State. Because of its revenue shortfall, the State has found it difficult to construct new infrastructure, including buildings and other facilities. In light of these circumstances, public-private partnerships have emerged as a promising, viable alternative model and are predicted to gain even greater prominence and popularity in the future.

Public-private partnerships offer a way to address the State's significant backlog of deferred facility maintenance and provide another tool for the department of accounting and general services to undertake sorely needed repair-and-maintenance work as well as new construction projects.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
STATE FACILITY RENOVATION PARTNERSHIP PROGRAM**

§ -1 Definitions. As used in this chapter:

“Building lease” means a contract between the department and private investor in which the private investor conveys an improved facility to the department for a specified period of time.

“Department” means the department of accounting and general services.

“Development agreement” means an agreement between the State and a private investor which, at a minimum, includes:

- (1) A description of the work to be done;
- (2) The sale price for the facility;
- (3) The duration of the agreement;
- (4) The roles and responsibilities of the department and the private investor; and
- (5) The terms and conditions for the ground lease and building lease.

“Facility” means property under the management and control of the department that may contain land, buildings, or both.

“Ground lease” means a lease of land executed between the State and private investor pursuant to which the private investor will renovate the existing facility, provide improvements, or construct a new building or buildings on a specified property.

“Private investor” means a non-governmental entity.

§ -2 State facility renovation partnership program; established. (a) There is established the state facility renovation partnership program to be administered by the department. The program shall include all transactions, including land, improvements, or both.

(b) The department shall conduct a comprehensive review of all state office facilities and shall compile a list of priority facilities situated on state-owned land that it deems best suited for the state facility renovation partnership program.

(c) The department may enter into a development agreement with any private investor for the sale of a priority facility identified in subsection (b) to the private investor; provided that the development agreement contains the following requirements:

- (1) The State shall sell the facility to the private investor, who shall:
 - (A) Renovate, improve, or construct for the State a facility, pursuant to a ground lease, and may maintain the facility; and
 - (B) Lease the facility to the State, pursuant to a building lease;
- (2) The land upon which the facility rests shall not be sold to the private investor; provided that the land may be leased at a nominal rate to the private investor for a term that would, at a minimum, allow the private investor to recover the capital investment that has been made to the facility, including depreciation; and
- (3) The State shall have the option of purchasing the facility from the private investor for the remaining balance of the debt service costs incurred by the private investor at any time; provided that the ground lease shall terminate concurrently.

(d) There is established the state facility renovation partnership special fund in the state treasury to be administered by the department and into which all funds derived from the state facility renovation partnership program shall be deposited. Funds in the special fund shall be used solely for the purposes of the state facility renovation partnership program.

(e) The department shall establish rules pursuant to chapter 91 to implement the purposes of this chapter.

(f) In the event of any conflicts between the provisions of this chapter and chapter 171, this chapter shall control; otherwise, the provisions of chapter 171 shall apply.”

SECTION 3. This Act shall take effect on July 1, 2011.

(Approved July 12, 2011.)