

## ACT 184

S.B. NO. 2898

A Bill for an Act Relating to Community Development.

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

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

**“PART . TRANSIT-ORIENTED DEVELOPMENT  
INFRASTRUCTURE IMPROVEMENT DISTRICT**

**§206E-A Findings and purpose.** The legislature finds that construction, installation, and improvement of certain infrastructure is necessary and desirable to facilitate renewal and redevelopment of areas designated by the State and the counties for transit-oriented development. Transit-oriented development is a powerful tool that can ultimately deliver a wide range of social, environmental, and economic benefits. Transit-oriented development promotes development patterns that support quality of life, preserves the natural environment, provides a range of housing choices for residents, and encourages walking, biking, and use of mass transit. The State plays an important role in overcoming barriers to transit-oriented development, including encouraging needed investments in improving regional infrastructure such as roads, sewers, water, power, communication, and storm water management systems. This part is intended to move transit-oriented development planning efforts forward into infrastructure improvements that benefit the community. The legislature further finds that, currently, no single state agency has the authority to improve infrastructure along a transit corridor in the best interest of the State. This part will enable the delivery of infrastructure needed to support development on lands within designated transit-oriented development zones.

Accordingly, the purpose of this part is to establish transit-oriented development infrastructure improvement districts to foster community development by strategically investing in infrastructure improvements.

**§206E-B Definitions.** As used in this part:

“Board” means the transit-oriented development infrastructure improvement district board.

“District” means the transit-oriented development infrastructure improvement district within each county-designated transit-oriented development zone, or within a one-half mile radius of a proposed or existing transit station if the county has not designated transit-oriented development zones, as determined by the board.

“Fund” means the transit-oriented development infrastructure improvement district special fund established under section 206E-G.

“Program” means the transit-oriented development infrastructure improvement district program developed by the board pursuant to section 206E-F.

**§206E-C District established; boundaries.** (a) The transit-oriented development infrastructure improvement district is hereby established under the authority.

(b) The district shall comprise the parcels of land within county-designated transit-oriented development zones, or within a one-half mile radius of a proposed or existing transit station if the county has not designated transit-oriented development zones, as determined by the board, which shall take into account proximity, walkability, adopted county plans, and other relevant factors; provided that in a county with a population in excess of five hundred thousand,

a transit-oriented development zone shall include a rail station or a planned rail station. The district shall include all parcels of land of which any portion of the parcels are located within the county-designated transit-oriented development zones, or within a one-half mile radius around proposed or existing transit stations if the county has not designated transit-oriented development zones.

**§206E-D Transit-oriented development infrastructure improvement district board; established; members; terms; vacancies.** (a) There is established the transit-oriented development infrastructure improvement district board, which shall be placed under the authority within the department of business, economic development, and tourism for administrative purposes. The board shall carry out the duties and responsibilities as set forth in this part.

(b) The board shall consist of the following voting members:

- (1) The director of finance or the director's designee;
- (2) The director of transportation or the director's designee;
- (3) The director of the office of planning and sustainable development or the director's designee;
- (4) The director of planning and permitting of the county in which each district is located or the director's designee; and
- (5) The following members, who shall be appointed by the governor pursuant to section 26-34:
  - (A) A cultural specialist;
  - (B) An at-large member, to be selected from a list of three nominees submitted by the president of the senate;
  - (C) An at-large member, to be selected from a list of three nominees submitted by the speaker of the house of representatives;
  - (D) A resident of the county where the district is located, to be selected from a list of three nominees submitted by the president of the senate; and
  - (E) A resident of the county where the district is located, to be selected from a list of three nominees submitted by the speaker of the house of representatives.

(c) The terms of the appointed members shall be for four years, commencing on July 1 and expiring on June 30; provided that the governor shall provide for staggered terms of the initially appointed members so that the initial terms of one at-large member and one district member selected by lot shall be for three years, the initial terms of one at-large member and one district member selected by lot shall be for four years, and the term of the cultural specialist shall be for two years.

(d) If a vacancy occurs, a member shall be appointed to fill the vacancy in the same manner as the original appointment within thirty days of the vacancy or within ten days of the senate's rejection of a previous appointment, as applicable.

(e) The terms of the director of finance, director of transportation, director of the office of planning and sustainable development, and the county directors of planning and permitting, or their respective designees, shall run concurrently with each director's term of office.

(f) Notwithstanding section 92-15, a majority of all eligible voting members as specified in this section shall constitute a quorum to do business, and the concurrence of a majority of all eligible voting members present shall be necessary to make any action of the board valid. All members shall continue in office until their respective successors have been appointed and received advice and consent of the senate. Except as provided herein, no member appointed

under this section shall be an officer or employee of the State or its political subdivisions.

(g) The members of the board shall serve without compensation but each shall be reimbursed for expenses, including travel expenses, incurred in the performance of their duties.

**§206E-E Transit-oriented development infrastructure improvement district board; powers; generally.** Except as otherwise limited by this part, with respect to the development, construction, and improvement of infrastructure within the districts, the board may:

- (1) Establish and administer districts and programs;
- (2) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this part;
- (3) Prepare or cause to be prepared an infrastructure improvement plan for the district;
- (4) Acquire, reacquire, or contract to acquire or reacquire, by grant or purchase, real, personal, or mixed property, or any interest therein, and own, hold, clear, improve, rehabilitate, sell, assign, exchange, transfer, convey, lease, or otherwise dispose of or encumber the same;
- (5) Acquire or reacquire by condemnation real, personal, or mixed property, or any interest therein, for infrastructure improvement;
- (6) By itself or in partnership with qualified persons, acquire, reacquire, construct, reconstruct, rehabilitate, improve, alter, or repair or provide for the construction, reconstruction, improvement, alteration, or repair of any infrastructure and own, hold, sell, assign, transfer, convey, exchange, lease, or otherwise dispose of or encumber any infrastructure improvement;
- (7) Arrange or contract for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys, or other places, or the furnishing of facilities, or for the acquisition of property or property rights, or for the furnishing of property or services in connection with an infrastructure improvement project;
- (8) Prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any infrastructure improvement project, and, from time to time, modify the plans, specifications, designs, or estimates of any infrastructure improvement project;
- (9) Provide advisory, consultative, training, and educational services; technical assistance; and advice to any person, partnership, or corporation, either public or private, to carry out the purposes of this part, and engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (10) Procure insurance against any loss in connection with its property and other assets and operations in amounts and from insurers as it deems desirable;
- (11) Contract for and accept gifts or grants in any form from any public agency or from any other source; and
- (12) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this part.

**§206E-F Transit-oriented development infrastructure improvement district program; assessment; rules.** (a) The board shall develop a transit-oriented

development infrastructure improvement district program to identify infrastructure improvements within each district. In determining the required infrastructure improvements to be undertaken, the board shall consider the strategic plan prepared by the Hawaii interagency council for transit-oriented development pursuant to section 226-63(c) and subsequent plans and studies prepared to further implement the strategic plan and the transit-oriented development projects therein.

(b) Whenever the board determines to undertake, or causes to be undertaken, any infrastructure improvement as part of the program, the cost of providing the infrastructure improvement may be assessed against the real property in each district specially benefiting from the infrastructure improvement. The board shall determine the areas of each district that will benefit from the infrastructure improvement to be undertaken, and if less than the entire district benefits, the board may establish assessment areas within the district. The board may issue and sell bonds in amounts as may be authorized by the legislature to provide funds to finance the infrastructure improvements. The board may fix the assessments against real property specially benefited. All assessments made pursuant to this section shall be a statutory lien against each lot or parcel of land assessed from the date of the notice declaring the assessment until the assessment is paid, and the lien shall have priority over all other liens except the lien of property taxes. As between liens of assessments, the earlier lien shall be superior to the later lien.

(c) Bonds issued to provide funds to finance transit-oriented development infrastructure improvements shall be secured solely by the real properties benefited or improved, the assessments thereon, or the revenues derived from the program for which the bonds are issued, including reserve accounts and earnings thereon, insurance proceeds, and other revenues, or any combination thereof. The bonds may be additionally secured by the pledge or assignment of loans and other agreements or any note or other undertaking, obligation, or property held by the board. Bonds issued pursuant to this section and the income therefrom shall be exempt from all state and county taxation, except transfer and estate taxes. The bonds shall be issued subject to rules adopted by the board pursuant to this section.

(d) Notwithstanding any other law to the contrary, in assessing real property for transit-oriented development infrastructure improvement, the board shall assess the real property within an assessment area according to the special benefits conferred upon the real property by the infrastructure improvement. These methods may include assessment on a frontage basis or according to the area of real property within an assessment area or any other assessment method that assesses the real property according to the special benefit conferred, or any combination thereof. No assessment levied against real property specially benefited as provided by this part shall constitute a tax on real property within the meanings of any constitutional or statutory provisions. No assessment shall be levied against real property owned by the federal government, the State, or a county, or an agency thereof, without the prior written consent of the owner.

(e) The board shall adopt rules pursuant to chapter 91 to provide for the method of undertaking and financing transit-oriented development infrastructure improvement in an assessment area or an entire district. The rules adopted pursuant to this section shall include but not be limited to:

- (1) The methods by which the board shall establish assessment areas;
- (2) The method of assessment of real properties specially benefited;
- (3) The costs to be borne by the board, the county in which districts are situated, and the property owners;

- (4) The procedures before the board relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices;
  - (5) Provisions relating to assessments;
  - (6) Provisions relating to financing, including bonds, revolving funds, advances from available funds, special funds for payment of bonds, payment of principal and interest, and sale and use of the bonds;
  - (7) Provisions relating to funds and refunding of outstanding debts;
  - (8) Provisions relating to limitations on time to sue; and
  - (9) Other related provisions.
- (f) Notwithstanding any other provisions to the contrary, the board may, in its discretion, enter into any agreement with the county in which the districts are located to implement all or part of the purposes of this section.
- (g) All sums collected under this section shall be deposited into the transit-oriented development infrastructure improvement district special fund established under section 206E-G and shall be applied solely to:
- (1) The payment of the principal and interest on the bonds and the cost of administering, operating, and maintaining the program;
  - (2) The establishment of reserves; and
  - (3) Other purposes as may be authorized in the proceedings providing for the issuance of the bonds.

If any surplus remains in the fund after the payment of the bonds chargeable against the fund, it shall be credited to and become a part of the fund.

(h) The transit-oriented development infrastructure improvements to be financed through bonds issued by the board may be dedicated to the county in which the infrastructure improvements are to be located. The board shall ensure that the infrastructure improvements are designed and constructed to meet county requirements and shall enter into an agreement with the county for dedication of the public facilities.

(i) Notwithstanding any law to the contrary, whenever it becomes necessary to remove, relocate, replace, or reconstruct public utility facilities that are part of a program, the board shall establish by rule the allocation of cost between the board, the affected public utilities, and the properties that may specially benefit from the improvement, if any. In determining the allocation of cost, the board shall consider the cost allocation policies for districts established by the county in which the removal, relocation, replacement, or reconstruction is to take place.

**§206E-G Transit-oriented development infrastructure improvement district special fund.** (a) There is established in the state treasury the transit-oriented development infrastructure improvement district special fund, into which shall be deposited:

- (1) All revenues, income, and receipts from the transit-oriented development infrastructure improvement district program;
  - (2) Moneys directed, allocated, or disbursed to the district from government agencies or private individuals or organizations, including grants, gifts, awards, donations, and assessments of landowners for costs to administer and operate the district;
  - (3) Assessments collected under section 206E-F; and
  - (4) Moneys appropriated to the fund by the legislature.
- (b) Moneys in the fund shall be used only for the purposes of this part.
- (c) Investment earnings credited to the assets of the fund shall become part of the fund.

**§206E-H Memorandum of agreement.** The board may execute memoranda of agreement with appropriate governmental agencies.

**§206E-I Annual comprehensive report.** The board shall submit an annual comprehensive report on the progress of development within the district to the legislature no later than twenty days prior to the convening of each regular session.”

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 27, 2022.)