



GOV. MSG. NO. 1249

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 21, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 21, 2012, the following bill was signed into law:

HB2595 HD2 SD2 CD1

RELATING TO SPECIAL PURPOSE REVENUE
BONDS TO ASSIST DAM AND RESERVOIR
OWNERS.

Act 147 (12)

A handwritten signature in black ink that reads "Neil Abercrombie". The signature is written in a cursive style with a large initial "N".

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

ORIGINAL

ACT 147

on JUN 21 2012

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

H.B. NO. 2595
H.D. 2
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST DAM AND
RESERVOIR OWNERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 39A, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . ASSISTING DAM AND RESERVOIR OWNERS

5 **§39A-A Definitions.** Whenever used in this part, unless a
6 different meaning clearly appears from the context:

7 "Appurtenant works" shall have the same meaning in this
8 part as it has in section 179D-3.

9 "Dam" shall have the same meaning in this part as it has in
10 section 179D-3.

11 "Department" means the department of budget and finance.

12 "Owner" means any person subject to chapter 179D who has a
13 right, title, or interest in or to the dam or reservoir or to
14 the property upon which the dam, reservoir, or appurtenant works
15 are located or proposed to be located.

16 "Person" or "persons" means an individual, firm,
17 enterprise, partnership, corporation, association, cooperative



1 or other legal entity, governmental body or agency, board,
2 bureau or other instrumentality thereof, or any combination of
3 the foregoing.

4 "Project" means any work on a dam, reservoir, or
5 appurtenant works necessary to maintain or improve the dam,
6 reservoir, or appurtenant works.

7 "Project agreement" means any agreement entered into under
8 this part by the department with a project party to finance,
9 construct, operate, or maintain a project from the proceeds of
10 special purpose revenue bonds, or to lend the proceeds of
11 special purpose revenue bonds to assist dam and reservoir
12 owners, including without limitation any loan agreement.

13 "Project party" means a person or persons who are dam and
14 reservoir owners.

15 "Reservoir" shall have the same meaning in this part as it
16 has in section 179D-3.

17 "Special purpose revenue bonds" or "bonds" means bonds,
18 notes, or other evidences of indebtedness of the State issued
19 pursuant to this part.

20 **§39A-B Department powers as to dam and reservoir owners.**

21 In addition to powers that it may now have, the department shall
22 have all powers necessary or convenient to accomplish the



1 purposes of this part. The powers of the department shall
2 include the following:

3 (1) Notwithstanding and without compliance with section
4 103-7, but with the approval of the governor, to:

5 (A) Enter into and carry out a project agreement, or
6 an amendment or supplement to an existing project
7 agreement, with a project party; and

8 (B) Enter into and carry out any agreement whereby
9 the obligation of a project party under a project
10 agreement will be unconditionally guaranteed by a
11 person other than a project party;

12 (2) To issue special purpose revenue bonds pursuant to and
13 in accordance with this part;

14 (3) To lend the proceeds of the special purpose revenue
15 bonds issued for a project to the project party for
16 use and application by the project party for the
17 acquisition, purchase, construction, reconstruction,
18 improvement, betterment, extension, maintenance of a
19 project, or refinancing of outstanding obligations
20 related to a project;



- 1 (4) As security for the payment of the principal, premium,
2 if any, and interest of the special purpose revenue
3 bonds issued for a project, to:
- 4 (A) Pledge, assign, hypothecate, or otherwise
5 encumber all or any part of the revenues and
6 receipts derived or to be derived by the
7 department under the project agreement for the
8 project for which the bonds are issued;
- 9 (B) Pledge and assign the interest and rights of the
10 department under the project agreement or other
11 agreement with respect to the project or the
12 special purpose revenue bonds;
- 13 (C) Pledge and assign any bond, debenture, note, or
14 other evidence of indebtedness received by the
15 department with respect to the project; or
- 16 (D) Any combination of the foregoing;
- 17 (5) To extend or renew any project agreement or any other
18 agreement related thereto; provided that any renewal
19 or extension shall be subject to the approval of the
20 governor unless made in accordance with provisions for
21 the extension or renewal contained in a project



1 agreement or related agreement previously approved by
2 the governor; and

3 (6) To do any and all things necessary or convenient to
4 carry out its purposes and exercise the powers given
5 and granted in this part.

6 When the department finances or refines a project by the
7 issuance of special purpose revenue bonds as contemplated by
8 this part, the State shall not exercise the power of eminent
9 domain to acquire a project or any part thereof for lease or
10 transfer to a project party, nor shall the State operate a
11 project on behalf of a project party.

12 **§39A-C Compliance with state and local law.** The issuance
13 of special purpose revenue bonds with respect to any project
14 under this part shall not relieve any project party or other
15 user of the project from the laws, ordinances, and rules of the
16 State or any political subdivision thereof, or any departments
17 or boards thereof with respect to:

18 (1) The construction, operation, and maintenance of
19 projects;

20 (2) Compliance with zoning laws or regulations;

21 (3) Obtaining of building permits; and



1 (4) Compliance with building and health codes and other
2 laws, ordinances, or rules and regulations of similar
3 nature pertaining to the project.

4 These laws shall be applicable to the party or any other user to
5 the same extent they would be if the costs of the project were
6 directly financed by the project party.

7 **§39A-D Conditions precedent to negotiating and entering**
8 **into a project agreement.** (a) Prior to entering into
9 negotiations with respect to a project agreement or at any time
10 during the negotiations, the department shall require that as a
11 condition to the negotiations or the continuation thereof, the
12 State shall be reimbursed for any and all costs and expenses
13 incurred by it even though a project agreement may not be
14 entered into. The department may further require the deposit of
15 moneys with the department as security for the reimbursement.
16 Any amount of the deposit in excess of the amount required to
17 reimburse the State shall be returned by the department to the
18 party that has made the deposit. The State shall not be
19 required to pay to the project party any interest or earnings on
20 the deposit.

21 (b) The department shall not enter into any project
22 agreement with respect to any project unless the legislature



1 shall have first authorized the issuance of special purpose
2 revenue bonds to finance the project pursuant to section 39A-G
3 and the department has thereafter found and determined either
4 that:

5 (1) The project party is a responsible party, whether by
6 reason of economic assets or experience in the type of
7 enterprise to be undertaken through the project, or
8 otherwise; or

9 (2) The obligations of the project party under the project
10 agreement will be unconditionally guaranteed by a
11 person who is a responsible party, whether by reason
12 of economic assets or experience in the type of
13 enterprise to be undertaken through the project, or
14 otherwise.

15 **§39A-E Project agreement.** No special purpose revenue
16 bonds shall be issued unless at the time of issuance the
17 department shall have entered into a project agreement with
18 respect to the project for the financing of which the special
19 purpose revenue bonds are to be issued. Any project agreement
20 entered into by the department shall contain provisions
21 unconditionally obligating the project party:



- 1 (1) To pay to the department during the period or term of
2 the project agreement, exclusive of any renewal or
3 extension thereof and whether or not the project is
4 used or occupied by the project party, the sum or
5 sums, at time or times, and in amounts that will be at
6 least sufficient:
- 7 (A) To pay the principal and interest on all special
8 purpose revenue bonds issued with respect to the
9 project as and when the same become due,
10 including any premium payable upon any required
11 redemption of the bonds;
- 12 (B) To establish or maintain a reserve, if any, that
13 may be required by the instrument authorizing or
14 securing the special purpose revenue bonds;
- 15 (C) To pay all fees and expenses, including the fees
16 and expenses of the paying agents and trustees,
17 incurred in connection with the special purpose
18 revenue bonds; and
- 19 (D) To pay the expenses, direct or indirect, incurred
20 by the State, as determined by the department, in
21 administering the bonds or in carrying out the
22 project agreement; and



1 (2) To operate, maintain, and repair the project as long
2 as it is used, as provided in the project agreement,
3 and to pay all costs of the operation, maintenance,
4 and repair.

5 Moneys received by the department pursuant to paragraph
6 (1)(D) shall not be, or be deemed to be, revenues of the project
7 and shall be paid into the general fund of the State.

8 **§39A-F Issuance of special purpose revenue bonds to**
9 **finance projects.** In addition to the other powers that it may
10 otherwise have, the department may issue special purpose revenue
11 bonds to finance or refinance, in whole or in part, the costs of
12 facilities of, or for, or to loan the proceeds of the bonds to
13 assist project parties. All revenue bonds issued under this
14 part are special purpose revenue bonds and the provisions of
15 part III of chapter 39 shall not apply thereto. All special
16 purpose revenue bonds shall be issued in the name of the
17 department and not in the name of the State.

18 In determining the cost of any project, the department may
19 also include the following:

20 (1) Financing charges, fees, and expenses of any trustee
21 and paying agents for special purpose revenue bonds
22 issued to pay the cost of the project;



- 1 (2) Interest on the bonds and the expenses of the State in
2 connection with the bonds and the project to be
3 financed from the proceeds of the bonds accruing or
4 incurred prior to and during the estimated period of
5 construction and for the period not exceeding twelve
6 months thereafter;
- 7 (3) Amounts necessary to establish or increase reserves
8 for the special purpose revenue bonds;
- 9 (4) The cost of plans, specifications, studies, surveys,
10 and estimates of costs and of revenues;
- 11 (5) Other expenses incidental to determining the
12 feasibility or practicability of the project;
- 13 (6) Administrative expenses;
- 14 (7) Legal, accounting, consulting, and other special
15 service fees;
- 16 (8) Interest cost incurred by the project party with
17 respect to the project prior to the issuance of the
18 special purpose revenue bonds; and
- 19 (9) Other costs, commissions, and expenses incidental to
20 the construction, acquisition, reconstruction,
21 renovation, rehabilitation, improvement, betterment,
22 operation, maintenance, or extension of the project,



1 the financing or refinancing thereof, placing of same
2 in operation, and the issuance of the special purpose
3 revenue bonds, whether incurred prior to or after the
4 issuance of the bonds.

5 The legislature finds and determines that the exercise of
6 the powers vested in the department by this part constitutes
7 assistance to dam and reservoir owners and that the issuance of
8 special purpose revenue bonds to finance facilities of, or for,
9 or to loan the proceeds of the bonds to assist project parties
10 is in the public interest.

11 **§39A-G Authorization of special purpose revenue bonds.**

12 (a) Special purpose revenue bonds for each project or multi-
13 project program shall be authorized by a separate act of the
14 legislature, by an affirmative vote of two-thirds of the members
15 to which each house is entitled; provided that the legislature
16 shall find that the issuance of the bonds is in the public
17 interest; provided further that no authorization shall be made
18 for a period exceeding five years of its enactment. Any special
19 purpose revenue bond authorization, or any portion of the
20 special purpose revenue bond authorization that has not been
21 issued at the close of the fiscal year for the period for which
22 the authorization is made, shall lapse. Special purpose revenue



1 bonds issued pursuant to this part may be in one or more series
2 for each project. The special purpose revenue bonds of each
3 issue shall be dated, shall bear interest at a rate or rates,
4 shall mature at a time or times not exceeding forty years from
5 their date or dates, shall have a rank or priority and may be
6 made redeemable before maturity at the option of the department,
7 at a price or prices and under terms and conditions, all as may
8 be determined by the department. The department shall determine
9 the form of the special purpose revenue bonds, including any
10 interest coupons to be attached thereto, and the manner of
11 execution of the special purpose revenue bonds, and shall fix
12 the denomination or denominations of the special purpose revenue
13 bonds and the place or places of payment of principal and
14 interest that may be at any bank or trust company within or
15 without the State. The special purpose revenue bonds may be
16 issued in coupon or in registered form, or both, as the
17 department may determine. Provisions may be made for the
18 registration of any coupon bonds as to principal alone and also
19 as to both principal and interest and for the reconversion into
20 coupon bonds of any bonds registered as to both principal and
21 interest. The department may sell special purpose revenue bonds



1 either at public or private sale and for a price that it may
2 determine.

3 (b) Prior to the preparation of definitive special purpose
4 revenue bonds, the department may issue interim receipts or
5 temporary bonds, with or without coupons, exchangeable for
6 definitive bonds when the bonds have been executed and are
7 available for delivery.

8 (c) Should any bond issued under this part or any coupon
9 appertaining thereto become mutilated or be lost, stolen, or
10 destroyed, the department may cause a new bond or coupon of like
11 date, number, and tenor to be executed and delivered in exchange
12 and substitution for, and upon the cancellation of the mutilated
13 bond or coupon, or in lieu of and in substitution for a lost,
14 stolen, or destroyed bond or coupon. The new bond or coupon
15 shall not be executed or delivered until the holder of the
16 mutilated, lost, stolen, or destroyed bond or coupon has:

- 17 (1) Paid the reasonable expense and related charges;
18 (2) In the case of a lost, stolen, or destroyed bond or
19 coupon, filed with the department or its fiduciary
20 evidence satisfactory to the department or its
21 fiduciary that the bond or coupon was lost, stolen, or



1 destroyed and that the holder was the owner of the
2 bond; and

3 (3) Furnished indemnity satisfactory to the department.

4 (d) The department may provide that CUSIP identification
5 numbers be printed on the special purpose revenue bonds. If
6 numbers are imprinted on the bonds:

7 (1) No CUSIP identification number shall constitute a part
8 of the contract evidenced by the particular bond upon
9 which it is imprinted; and

10 (2) No liability shall attach to the department or any of
11 its officers or agents, including any fiscal agent,
12 paying agent, or registrar for the bonds, by reason of
13 the numbers or any use made thereof, including any use
14 made by the department, any officer, or any agent, or
15 by reason of any inaccuracy, error, or omission with
16 respect thereto or in any use.

17 The department may require that all costs of obtaining and
18 imprinting the numbers shall be paid by the purchaser of the
19 bonds. For the purpose of this subsection, the term "CUSIP
20 identification numbers" means the numbering system adopted by
21 the Committee for Uniform Security Identification Procedures
22 formed by the Securities Industry Association.



1 **§39A-H Special purpose revenue bond anticipation notes.**
2 Whenever the department has authorized the issuance of special
3 purpose revenue bonds under this part, special purpose revenue
4 bond anticipation notes of the department may be issued in
5 anticipation of the issuance of the bonds and of the receipt of
6 the proceeds of sale of the bonds, for the purposes for which
7 the bonds have been authorized. All special purpose revenue
8 bond anticipation notes shall be authorized by the department,
9 and the maximum principal amount of the notes shall not exceed
10 the authorized principal amount of the bonds. The notes shall
11 be payable solely from and secured solely by the proceeds of
12 sale of the special purpose revenue bonds in anticipation of
13 which the notes are issued and the revenues from which would be
14 payable and by which the bonds would be secured; provided that
15 to the extent that the principal of the notes shall be paid from
16 moneys other than the proceeds of sale of the bonds, the maximum
17 amount of bonds in anticipation of which the notes are issued
18 that has been authorized shall be reduced by the amount of notes
19 paid in such manner. The authorization, issuance, and the
20 details of the notes shall be governed by this part with respect
21 to special purpose revenue bonds insofar as the same may be
22 applicable; provided that each note, together with all renewals



1 and extensions thereof, or refundings thereof by other notes
2 issued under this section, shall mature within five years from
3 the date of the original note.

4 **§39A-I Powers with respect to and security for special**
5 **purpose revenue bonds.** To secure the payment of any of the
6 special purpose revenue bonds issued pursuant to this part and
7 interest thereon, or in connection with the bonds, the
8 department shall have the power:

- 9 (1) To pledge all or any part of the revenues derived by
10 the department from the project agreement to the
11 punctual payment of special purpose revenue bonds
12 issued with respect to the project financed from
13 proceeds thereof and interest thereon, and to covenant
14 against thereafter pledging any revenues or receipts
15 to any other bonds or any other obligations of the
16 department for any other purpose, except as otherwise
17 stated in the law providing for the issuance of
18 additional special purpose revenue bonds to be equally
19 and ratably secured by a lien upon the revenues;
- 20 (2) To pledge and assign the interest and right of the
21 department under the project agreement and other
22 agreements related thereto and the rights, duties, and



1 obligations of the department thereunder, including
2 the right to receive revenues thereunder;
3 (3) To covenant as to the use and disposition of the
4 proceeds from the sale of the bonds;
5 (4) To covenant to set aside or pay over reserves and
6 sinking funds for the bonds and as to the disposition
7 thereof;
8 (5) To covenant and prescribe as to what happenings or
9 occurrences shall constitute "events of default" and
10 the terms and conditions upon which any or all of the
11 bonds shall become or may be declared due before
12 maturity and as to the terms and conditions upon which
13 the declaration and its consequences may be waived;
14 (6) To covenant as to the rights, liabilities, powers, and
15 duties arising upon the breach by it of any covenant,
16 condition, or obligation;
17 (7) To designate a national or state bank or trust company
18 within or without the State, incorporated in the
19 United States, to serve as trustee for the holders of
20 the special purpose revenue bonds and to enter into a
21 trust indenture or trust agreement or indenture of
22 mortgage with the trustee. The trustee may be



1 authorized by the department to receive and receipt
2 for, hold, and administer the proceeds of the special
3 purpose revenue bonds issued for the project and to
4 apply the proceeds to the purposes for which the bonds
5 are issued, or to receive and receipt for, hold, and
6 administer the revenues derived by the department
7 under the project agreement and to apply the revenues
8 to the payment of the principal and interest on the
9 bonds, or both, and any excess revenues to the payment
10 of expenses incurred by the State in administering the
11 bonds or in carrying out the project agreement. If a
12 trustee is appointed, any trust indenture or trust
13 agreement or indenture of mortgage entered into by the
14 department with the trustee may contain whatever
15 covenants and provisions as may be necessary or
16 convenient or desirable to secure the bonds. The
17 department may pledge and assign to the trustee the
18 interest of the department under the project agreement
19 and other agreements related thereto and the rights,
20 duties, and obligations of the department thereunder,
21 including the right to receive revenues thereunder.
22 The department may appoint the trustee to serve as



1 fiscal agent for the payment of the principal and
2 interest, and for the purchase, registration,
3 transfer, exchange, and redemption of the special
4 purpose revenue bonds. The department may also
5 authorize and empower the trustee to perform these
6 functions with respect to the payment, purchase,
7 registration, transfer, exchange, and redemption, as
8 the department may deem necessary, advisable, or
9 expedient, including without limitation the holding of
10 the special purpose revenue bonds and coupons that
11 have been paid and the supervision of the destruction
12 thereof in accordance with law;

13 (8) To execute all instruments necessary or convenient in
14 the exercise of the powers herein granted or in the
15 performance of its covenants and duties; and

16 (9) To make covenants and do any and all acts as may be
17 necessary, convenient, or desirable to secure the
18 bonds, notwithstanding that the covenants, acts, or
19 items may not be enumerated herein.

20 The department shall have the power to do all things in the
21 issuance of the bonds and for their security that are consistent
22 with the Constitution of the State of Hawaii.



1 **§39A-J Security for special purpose revenue bonds.**

2 Special purpose revenue bonds shall be payable solely from the

3 revenues derived by the department from payments made to the

4 department under the project agreement or other supplemental

5 agreements entered into with respect to the project and shall be

6 secured solely by the bond revenues and by the pledges and

7 assignments authorized by this part. Subject to the prior and

8 superior rights of outstanding bonds, claims, obligations, or

9 mechanic's and materialman's liens, all special purpose revenue

10 bonds of the same issue shall have a prior and paramount lien on

11 the revenues derived from the project agreement with respect to

12 the project, for which the bonds have been issued, over and

13 ahead of all special purpose revenue bonds of any issue payable

14 from the revenues that may be subsequently issued and over and

15 ahead of any claims or obligations of any nature against the

16 revenues subsequently arising or subsequently incurred; provided

17 that the department may reserve the right and privilege to

18 subsequently issue additional series of special purpose revenue

19 bonds, from time to time, payable from the revenues derived from

20 the project agreement on a parity with the special purpose

21 revenue bonds previously issued, and the subsequently issued

22 series of special purpose revenue bonds may be secured, without



1 priority by reason of date of sale, date of execution, or date
2 of delivery, by a lien on the revenues in accordance with law,
3 including this part.

4 Notwithstanding any other provisions herein, all or part of
5 the property constituting the project and all interest of the
6 project party in the project and the revenues of the project
7 party therefrom may be subjected to the present and future lien
8 of any mortgage of the project party securing the project
9 party's bonds, and the rights of the department and any trustee
10 for the holders of the special purpose revenue bonds and the
11 holders of the special purpose revenue bonds in the project and
12 the revenues therefrom may be made subject to the prior lien of
13 the project party's mortgage.

14 **§39A-K Special purpose revenue bonds not a general**
15 **obligation of the State.** No holder or holders of any special
16 purpose revenue bonds issued under this part shall ever have the
17 right to compel any exercise of the taxing power of the State to
18 pay the bonds or the interest thereon and no moneys other than
19 the revenues pledged to the bonds shall be applied to the
20 payment thereof. Each special purpose revenue bond issued under
21 this part shall recite in substance that the bond, including
22 interest thereon, is not a general obligation of the State and



1 is payable solely from the revenues pledged to the payment
2 thereof, and that the bond is not secured, directly or
3 indirectly, by the full faith and credit or the general credit
4 of the State or by any revenues or taxes of the State other than
5 the revenues specifically pledged thereto.

6 **§39A-L Validity of special purpose revenue bonds.** The
7 special purpose revenue bonds bearing the signature or facsimile
8 signature of officers in office on the date of the signing
9 thereof shall be valid and sufficient for all purposes,
10 notwithstanding that before the delivery thereof and payment
11 therefor, any or all the persons whose signatures appear thereon
12 shall have ceased to be officers of the department. Special
13 purpose revenue bonds shall contain a recital that they are
14 issued pursuant to this part, which recital shall be conclusive
15 evidence of their validity and of the regularity of their
16 issuance.

17 **§39A-M Use of revenues derived from project agreement.**

18 The department shall have the right to appropriate, apply, or
19 expend the revenues derived with respect to the project
20 agreement for a project for the following purposes:

21 (1) To pay when due all special purpose revenue bonds,
22 premiums if any, and interest thereon, for the payment



1 of which the revenues are or have been pledged,
2 charged, or otherwise encumbered, including reserves
3 therefor; and

4 (2) To the extent not paid by the project party to provide
5 for all expenses of administration, operations, and
6 maintenance of the project, including reserves
7 therefor.

8 Unless and until adequate provision has been made for the
9 foregoing purposes, the department shall not transfer the
10 revenues derived from the project agreement to the general fund
11 of the State.

12 **§39A-N Special purpose revenue bonds exempt from taxation.**

13 Special purpose revenue bonds and the income therefrom issued
14 pursuant to this part shall be exempt from all state and county
15 taxation except inheritance, transfer, and estate taxes.

16 **§39A-O Federal tax exempt status.** To the extent

17 practicable, special purpose revenue bonds issued pursuant to
18 this part shall be issued to comply with requirements imposed by
19 applicable federal law providing that the interest on the
20 special purpose revenue bonds shall be excluded from gross
21 income for federal income tax purposes, except as certain
22 minimum taxes or environmental taxes may apply. The director of



1 finance may enter into agreements, establish funds or accounts,
2 and take any action required to comply with applicable federal
3 law. Nothing in this part shall be deemed to prohibit the
4 issuance of special purpose revenue bonds, the interest on which
5 may be included in gross income for federal income tax purposes.

6 **§39A-P Exemption from taxation of department property.**

7 All revenues derived by the department from any project or under
8 the project agreement pertaining thereto shall be exempt from
9 all state and county taxation. Any right, title, and interest
10 of the department in any project shall also be exempt from all
11 state and county taxation.

12 Except as otherwise provided by law, the interest of the
13 project party or user of the project under the project agreement
14 or related agreement shall not be exempt from taxation to a
15 greater extent than it would be if the costs of the project were
16 directly financed by the project party or other user.

17 **§39A-Q Refunding special purpose revenue bonds.** By act
18 enacted by an affirmative vote of two-thirds of the members to
19 which each house is entitled, the legislature may authorize the
20 issuance of refunding special purpose revenue bonds for the
21 purpose of refunding any special purpose revenue bonds then
22 outstanding and issued under this part, whether or not the



1 outstanding special purpose revenue bonds have matured or are
2 then subject to redemption. By act enacted by an affirmative
3 vote of two-thirds of the members to which each house is
4 entitled, the legislature may provide for the issuance of a
5 single issue of special purpose revenue bonds for the combined
6 purposes of:

7 (1) Financing or refinancing the cost of a project or
8 improvement or expansion thereof; and

9 (2) Refunding special purpose revenue bonds that shall
10 theretofore have been issued under this part and shall
11 then be outstanding, whether or not the outstanding
12 special purpose revenue bonds have matured or are then
13 subject to redemption.

14 Nothing in this section shall require or be deemed to
15 require the department to elect to redeem or prepay special
16 purpose revenue bonds being refunded, or to redeem or prepay
17 special purpose revenue bonds being refunded that were issued in
18 the form customarily known as term bonds in accordance with any
19 sinking fund installment schedule specified in any instruments
20 providing for the issuance thereof, or, if the department elects
21 to redeem or prepay any bonds, to redeem or prepay as of any
22 particular date or dates. The issuance of refunding special



1 purpose revenue bonds, the maturities and other details thereof,
2 the rights and remedies of the holders thereof, and the rights,
3 powers, privileges, duties, and obligations of the department
4 with respect to the same, shall be governed by the foregoing
5 provisions of this part insofar as the same may be applicable.

6 **§39A-R Status of special purpose revenue bonds under the**
7 **Uniform Commercial Code.** Notwithstanding any of the provisions
8 of this part or any recitals in any special purpose revenue
9 bonds issued under this part, all special purpose revenue bonds
10 shall be deemed to be investment securities under the Uniform
11 Commercial Code, chapter 490, subject only to the provisions of
12 the special purpose revenue bonds pertaining to registration.

13 **§39A-S Special purpose revenue bonds as legal investments**
14 **and lawful security.** Special purpose revenue bonds issued
15 pursuant to this part shall be and are declared to be legal and
16 authorized investments for banks, savings banks, trust
17 companies, savings and loan associations, insurance companies,
18 credit unions, fiduciaries, trustees, guardians, and for all
19 public funds of the State or other political corporations or
20 subdivisions of the State. The special purpose revenue bonds
21 shall be eligible to secure the deposit of any and all public
22 funds of the State and any and all public funds of counties or



1 other political corporations or subdivisions of the State, and
2 the bonds shall be lawful and sufficient security for public
3 fund deposits to the extent of their value when accompanied by
4 all unmatured coupons appertaining thereto.

5 **§39A-T Access to and public disclosure of financial**
6 **records of project party.** (a) Each project party with a
7 project agreement with the department shall allow the department
8 full access to the project party's financial records. Upon the
9 request of the department for the examination of any financial
10 record, the project party shall allow the department to examine
11 the requested records within a reasonably prompt time from the
12 date of the request. If the department requests copies of the
13 records, the project party shall provide the copies.

14 (b) To provide the public with full knowledge of the use
15 of the proceeds and benefits derived from special purpose
16 revenue bonds issued under this part, the department shall
17 require each project party with a project agreement with the
18 department to make available to the public all relevant
19 financial records that pertain to the use of or savings
20 resulting from the use of special purpose revenue bonds.

21 (c) The department shall adopt rules under chapter 91 for
22 the purposes of this section.



1 **§39A-U Estimate of benefits.** (a) Each project party with
2 a project agreement with the department shall estimate the
3 benefits derived from the use of the proceeds of special purpose
4 revenue bonds. The benefits estimated shall be based on the
5 creation of new jobs and potential effect on tax receipts. The
6 format of and method for determining the estimates shall be
7 established by the department and shall be uniform for each
8 project party.

9 (b) To promote public understanding of the role played by
10 special purpose revenue bonds in providing benefits to the
11 general public, the department shall take appropriate steps to
12 ensure public access to and scrutiny of the estimates determined
13 under subsection (a).

14 (c) The department shall adopt rules under chapter 91 for
15 the purposes of this section.

16 **§39A-V Construction of this part.** The powers conferred by
17 this part shall be in addition and supplemental to the powers
18 conferred by any other law. Insofar as the provisions of this
19 part are inconsistent with the provisions of any other law, this
20 part shall control."

21 SECTION 2. In codifying the new part added to chapter 39A,
22 Hawaii Revised Statutes, by section 1 of this Act, the revisor



1 of statutes shall substitute appropriate section numbers for the
2 letters used in designating and referring to the new sections in
3 this Act.

4 SECTION 3. This Act shall take effect on July 1, 2012, and
5 upon ratification of constitutional amendments authorizing the
6 State to issue special purpose revenue bonds and use the
7 proceeds from the bonds to assist dam and reservoir owners.

APPROVED this 21 day of JUN, 2012


GOVERNOR OF THE STATE OF HAWAII

