

## SUMMARY OF PROPOSED COMMITTEE DRAFT:

### Bill 40 (2023)

#### RELATING TO THE TRANSIT CONSTRUCTION MITIGATION FUND.

The **PROPOSED CD1** makes the following amendments:

- A. In SECTION 2 of the bill, amends ROH Section 6-55.2 by adding definitions for "Business," "City Block" and "Rail Project," and replacing "Honolulu High Capacity Transit Project" in the purpose statement in new subsection (a) with the defined term "Rail Project."
- B. In SECTION 3 of the bill, amends ROH Section 6-55.4 as follows:
  - 1. Replaces "Honolulu High Capacity Transit project" with the defined term, "Rail Project";
  - 2. Prohibits the fund expenditures from being used to mitigate beyond impacts from construction of the Rail Project;
  - 3. Clarifies that reestablishment grants are for businesses that are being forced to physically relocate;
  - 4. Deletes the limitation for eligibility for business interruption grants to only those businesses located along the Rail Project corridor; and
  - 5. Amends eligibility for working capital advance loans to covering operating expenses incurred during the active construction phase.
- C. In SECTION 4 of the bill, repeals ROH Section 6-55.5 ("Administration").
- D. In SECTION 5 of the bill, removes the text of the new ROH Section 6-55.5 ("Additional requirements") and substitutes a new ROH Section 6-55.5 with the section heading of "Criteria" that:
  - 1. Lists qualification criteria for applicants to receive a grant or loan from the transit construction mitigation fund, including that the applicant must, at a minimum:
    - a. Be a business that is majority-owned by city residents and that does business with customers primarily at a physical location located within a city block in which there is active construction on the Rail Project at the time of application;
    - b. Generate not more than \$750,000 in annual revenue;

- c. Have 15 or fewer employees; and
    - d. Have opened for business prior to the commencement of active construction on the Rail Project within the same city block as the business location.
  - 2. Authorizes the director of budget and fiscal services to establish additional selection criteria for the applicants, including determinations on applicant viability.
- E. Adds a new SECTION 6 of the bill to add a new ROH Section 6-55.6 ("Administration—Rules") that:
  - 1. Requires the director of budget and fiscal services to:
    - a. Administer the transit construction mitigation fund; and
    - b. Adopt rules pursuant to HRS Chapter 91 to implement, enforce, and administer Article 55, including rules regarding application procedures, deadlines, expenditure amounts, and additional selection criteria.
  - 2. Adds the requirement that expenditures from the fund be in accordance with prescribed laws and procedures applicable to the expenditure of City revenues.

Renumbers subsequent bill SECTIONS.

- F. Adds a new SECTION 7 of the bill to add a new ROH Section 6-55.7 ("Outreach") requiring the Mayor to designate a City agency to conduct outreach activities with businesses that may be eligible to receive transit construction mitigation fund grants or loans, and describing activities that may be included in the outreach.
- G. Makes miscellaneous technical and nonsubstantive amendments.



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RELATING TO THE TRANSIT CONSTRUCTION MITIGATION FUND.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. The purpose of this ordinance is to establish additional requirements for the Transit Construction Mitigation Fund.

SECTION 2. Section 6-55.2, Revised Ordinances of Honolulu 2021, is amended to read as follows:

**"§ 6-55.2 Purpose[.]—Definitions.**

- (a) The purpose of the transit construction mitigation fund is to receive and expend moneys to mitigate negative economic impacts from the construction of the ~~[Honolulu High Capacity Transit project]~~ Rail Project.
- (b) For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning:

**Business.** Any sole proprietorship, partnership, joint venture, business trust, limited liability company, corporation, or other business entity.

**City Block.** The smallest area designated on an official map of the city that is bounded on all sides by intersecting public streets.

**Rail Project.** The Honolulu High-Capacity Transit Corridor Project."

SECTION 3. Section 6-55.4, Revised Ordinances of Honolulu 2021, is amended to read as follows:

**"§ 6-55.4 Expenditures.**

Expenditures from the transit construction mitigation fund ~~[shall]~~ may only be used to mitigate negative economic impacts on businesses from the ~~[construction of the Honolulu High Capacity Transit project]~~ Rail Project, provided that expenditures may not be used to mitigate beyond impacts from construction of the Rail Project. Expenditure types [and such expenditures] may include but are not [be] limited to:



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- (1) Reestablishment payments (grants): Available to businesses that ~~[were]~~ are being forced to physically relocate due to rail construction;
- (2) Business interruption payments (grants): To compensate businesses ~~[located along the corridor]~~ for loss of business income due to construction impacts; and
- (3) Working capital advances (loans): For covering legitimate business operating expenses required to continue operation during the active construction phase."

SECTION 4. Section 6-55.5, Revised Ordinances of Honolulu 2021, is repealed.

~~["§ 6-55.5 Administration.~~

~~The director of budget and fiscal services shall administer the transit construction mitigation fund."]~~

SECTION 5. Chapter 6, Article 55, Revised Ordinances of Honolulu 2021 ("Transit Construction Mitigation Fund"), is amended by adding a new Section 6-55.5 to read as follows:

**"§ 6-55.5 Criteria.**

- (a) To qualify for an expenditure under § 6-55.4, an applicant must, at a minimum:
  - (1) Be a business that is majority-owned by city residents and that does business with customers primarily at a physical location located within a city block in which there is active construction on the Rail Project at the time of application;
  - (2) Generate not more than \$750,000 in annual revenue;
  - (3) Have 15 or fewer employees; and
  - (4) Have opened for business prior to the commencement of active construction on the Rail Project within the same city block as the business location.



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- (b) The director of budget and fiscal services may establish additional selection criteria for applicants under this section, including determinations on applicant viability."

SECTION 6. Chapter 6, Article 55, Revised Ordinances of Honolulu 2021 ("Transit Construction Mitigation Fund"), is amended by adding a new Section 6-55.6 to read as follows:

**"§ 6-55.6 Administration—Rules.**

- (a) The director of budget and fiscal services shall administer the transit construction mitigation fund.
- (b) The director of budget and fiscal services shall adopt rules pursuant to HRS Chapter 91 to implement, enforce, and administer this article, including rules regarding:
- (1) Application procedures;
  - (2) Deadlines;
  - (3) Expenditure amounts; and
  - (4) Additional selection criteria
- for grants and loans funded with transit construction mitigation fund moneys.
- (c) Expenditures from the transit construction mitigation fund must be in accordance with prescribed laws and procedures applicable to the expenditure of city revenues."



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SECTION 7. Chapter 6, Article 55, Revised Ordinances of Honolulu 2021 ("Transit Construction Mitigation Fund"), is amended by adding a new Section 6-55.7 to read as follows:

**"§ 6-55.7 Outreach.**

The mayor shall designate an agency to conduct outreach activities with businesses that may be eligible to receive grants or loans under this article. The outreach activities may include:

- (1) Providing public notice in a daily newspaper or an electronic medium, such as the Internet, or both;
- (2) Directly contacting potentially eligible applicants, including by canvassing; and
- (3) Providing assistance to eligible applicants throughout the application process."

SECTION 8. In SECTIONS 2, 3, and 4 of this ordinance, ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.



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SECTION 9. This ordinance takes effect upon its approval.

INTRODUCED BY:

Tyler Dos Santos-Tam

Radiant Cordero

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DATE OF INTRODUCTION:

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June 30, 2023

Honolulu, Hawai'i

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Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

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RICK BLANGIARDI, Mayor  
City and County of Honolulu