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# A BILL FOR AN ACT

RELATING TO A PORT AUTHORITY.

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

1           SECTION 1. The legislature finds that Hawaii's sea and air  
2 transportation planning, management, and development functions  
3 are currently spread out among a number of agencies, including  
4 the department of transportation's commercial harbors and  
5 airports divisions, as well as the department of health with  
6 respect to environmental concerns, and the office of Hawaiian  
7 affairs when ceded lands issues arise.

8           This multijurisdictional situation has resulted in  
9 inefficiencies and conflicts that are difficult to resolve  
10 between agencies. In addition, this situation sometimes leads  
11 to conflicting plans of action among the different agencies  
12 seeking to implement differing goals.

13           The economic well-being of the State depends in part on the  
14 efficient use of all of its air and sea transportation resources  
15 which will enhance and complement efforts to revitalize and  
16 sustain Hawaii's economy. The legislature believes that  
17 coordinated planning and development of sea and air



1 transportation would be implemented more effectively by a single  
2 entity having overall consolidated jurisdiction.

3 In response to Senate Concurrent Resolution No. 214, H.D. 1  
4 (1995), then-governor Cayetano convened the Hawaii maritime  
5 industry policy advisory task force within the office of the  
6 governor to examine several issues including "establishing a  
7 port authority to implement and administer maritime policy under  
8 the port authority." Subsequently, the task force submitted to  
9 the legislature its report that determined that the advantages  
10 of establishing a port authority outweighed the disadvantages of  
11 doing so. The advantages of establishing a port authority  
12 include:

- 13 (1) Providing an institutional mechanism to promote  
14 efficient allocation of waterfront resources;
- 15 (2) Focusing control and responsibility for waterfront  
16 resources within a single entity, thereby eliminating  
17 multi-agency oversight and jurisdiction;
- 18 (3) Providing an appropriate forum for all affected  
19 interests;
- 20 (4) Increasing efficiency in land use and related lease  
21 processes;
- 22 (5) Streamlining administrative processes;



- 1           (6) Making possible more responsive planning;
- 2           (7) Increasing financial flexibility; and
- 3           (8) Increasing responsiveness to customer needs and
- 4           economic demands.

5           In addition to the findings of the 1996 task force, the  
6 legislature finds that the establishment of a port authority  
7 will assist in the following important statewide objectives:

- 8           (1) Increase security for the State. In the aftermath of  
9           the September 11, 2001, terrorist attacks, the  
10           legislature finds that there is a much greater need to  
11           coordinate all state security interests for airports  
12           and commercial harbors at entry-points into the state;
- 13          (2) Improve the management of and increase funding for  
14           state commercial harbors. A port authority will  
15           improve not only the management of the State's  
16           commercial harbors, but will allow the State to  
17           combine the resources of both the airports and harbors  
18           divisions of the department of transportation, thereby  
19           allowing the State to issue larger bonds to raise more  
20           money for the improvement of commercial harbor  
21           infrastructure;



- 1           (3) Improve administrative efficiency. As noted by the  
2           1996 task force, consolidating air and sea  
3           transportation functions in a single entity will help  
4           to streamline administrative processes, thereby making  
5           possible more responsive planning, increasing  
6           financial flexibility, and increasing responsiveness  
7           to customer needs and economic demands;
- 8           (4) Coordinate environmental issues affecting the airports  
9           and commercial harbors, particularly relating to alien  
10          invasive species. A port authority will be able to  
11          oversee everything that enters the state by air or  
12          sea, thereby allowing that entity to serve as the  
13          agency responsible for comprehensive alien invasive  
14          species protection and control; and
- 15          (5) Increase economic opportunities to the State,  
16          particularly relating to the cruise ship industry.  
17          The establishment of a port authority will enable the  
18          State to develop improved infrastructure and issue  
19          bonds to assist cruise ships and other industries that  
20          form a logical nexus to the sea and air transportation  
21          sectors.



1           The legislature finds that the rational allocation and  
2 administration of scarce and increasingly valuable waterfront  
3 and airport resources through the establishment of a port  
4 authority is vital for the well-being of the people and the  
5 economy of the state.

6           Accordingly, the purpose of this Act is to establish the  
7 State of Hawaii port authority, an independent public entity to  
8 set statewide policy on all matters relating to commercial  
9 harbors and airports in Hawaii, and to transfer the functions,  
10 duties, and powers exercised by the department of transportation  
11 over commercial harbors and airports to the State of Hawaii port  
12 authority.

13           It is the intent of the legislature that the functions,  
14 duties, and staff of the departments and agencies currently  
15 charged with the responsibilities to be administered by the port  
16 authority will be eventually transferred to this authority.  
17 Because of the complexities involved with such a transfer,  
18 however, this Act establishes the authority and its board and  
19 also creates a temporary port authority task force within the  
20 office of the governor to draft legislation to implement this  
21 Act.



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

4 "CHAPTER

5 STATE OF HAWAII PORT AUTHORITY

6 § -1 **Definitions.** As used in this chapter, unless the  
7 context indicates otherwise:

8 "Administrator" means the administrator of the port  
9 authority.

10 "Aeronautics" shall have the same meaning as defined in  
11 section 261-1.

12 "Air navigation facility" shall have the same meaning as  
13 defined in section 261-1.

14 "Airport" means any area of land or water that is used, or  
15 intended for use, for the landing and taking-off of aircraft,  
16 and any appurtenant areas that are used, or intended for use,  
17 for airport buildings or other airport facilities or rights-of-  
18 way, including approaches, together with all airport buildings  
19 and facilities located thereon.

20 "Commercial harbor" means a harbor or offshore mooring  
21 facility that is intended primarily for the movement of  
22 commercial cargo, and commercial passenger and fishing vessels



1 entering, leaving, or traveling within the state, and facilities  
2 and supporting services for the loading, off-loading, and  
3 handling of commercial cargo, commercial passengers, and fishing  
4 vessels.

5 "Port authority" means the State of Hawaii port authority.

6 § -2 **Port authority; establishment; members and**

7 **administrator.** (a) There is established the State of Hawaii  
8 port authority, which shall be a body corporate and a special  
9 political subdivision of the State for the purposes of this  
10 chapter. The port authority is placed within the department of  
11 budget and finance for administrative purposes only.

12 (b) The port authority shall consist of seven voting  
13 members. The administrator shall be an ex-officio voting member  
14 of the port authority. Two members shall be appointed by the  
15 governor pursuant to section 26-34, except as specifically  
16 provided to the contrary in this section. Two members shall be  
17 appointed by the governor from a list of names  
18 provided by the president of the senate, provided that the list  
19 shall include at least one name from each county; and two  
20 members shall be appointed by the governor from a list of  
21 names provided by the speaker of the house, provided



1 that the list shall include at least one name from each county;  
2 provided that:

3 (1) The lists of names provided by the president of the  
4 senate and the speaker of the house shall be selected  
5 from lists of prospective appointees recommended by  
6 the county councils;

7 (2) The governor shall stagger the terms of those members  
8 appointed from lists provided by the president of the  
9 senate and the speaker of the house so there will  
10 always be one member from each county in office at all  
11 times; and

12 (3) Those members appointed by the governor from lists  
13 provided by the president of the senate and the  
14 speaker of the house shall be exempt from senate  
15 confirmation.

16 All members, except for the administrator, shall continue in  
17 office until their respective successors have been appointed  
18 and, if required, confirmed by the senate. The port authority  
19 shall establish bylaws providing for the automatic succession of  
20 a deputy administrator to the vacant post of administrator on an  
21 interim basis and until a permanent administrator is appointed.  
22 Except as provided in this chapter, no member appointed under





1 this section shall be an officer or employee of the State or the  
2 counties.

3 (c) The port authority shall be headed by a single  
4 executive to be known as the administrator of the port  
5 authority. The administrator:

6 (1) Shall be appointed by the vote of not less than four  
7 members of the port authority, excluding the  
8 administrator;

9 (2) Shall be a voting member of the port authority; and

10 (3) May be removed from office by a vote of not less than  
11 four members of the port authority, excluding the  
12 administrator.

13 The administrator shall have such powers as are described in  
14 this chapter and as may be delegated by the members of the port  
15 authority. The administrator, with the majority consent of a  
16 quorum, shall appoint a division chief for the port authority's  
17 airport responsibilities and a division chief for the port  
18 authority's commercial harbor responsibilities. Each division  
19 chief shall exercise and discharge the division chief's  
20 respective responsibilities, whether or not in the  
21 administrator's presence, and shall not exercise the  
22 responsibilities of the other division chief. Each division



1 chief shall report to, and be under the supervision of, the  
2 administrator. The administrator, with the majority consent of  
3 a quorum, may appoint such deputy administrators as the  
4 administrator deems appropriate. Each deputy administrator  
5 shall exercise those powers that may be delegated by the  
6 administrator, whether or not in the administrator's presence.  
7 The administrator may hire staff and employees to fill positions  
8 that may be provided for in the port authority's annual budget.  
9 The functions and duties of all positions, and the discharge of  
10 any staff or employee hired by the administrator, shall be  
11 provided for in the bylaws of the port authority.

12 (d) The number of members necessary to constitute a quorum  
13 to do business shall consist of a majority of all members who  
14 have accepted nomination to the port authority, and have been  
15 confirmed and qualified as members of the port authority.

16 § -3 Powers; generally. (a) Except as otherwise  
17 provided in this chapter, the port authority:

18 (1) Shall exercise power and control over airports, air  
19 navigation facilities, buildings, and other facilities  
20 belonging to, or controlled by, the port authority to  
21 provide for:



- 1           (A) The landing, taking-off, and servicing of
- 2                   aircraft, and the loading and unloading of
- 3                   passengers and cargo;
- 4           (B) The comfort, accommodation, and convenience of
- 5                   air travelers; and
- 6           (C) Any matters related to the foregoing;
- 7       (2) Shall exercise power and control over:
- 8           (A) All commercial harbors and roadsteads and
- 9                   waterfront improvements belonging to or
- 10                  controlled by the port authority;
- 11           (B) All vessels and shipping within the commercial
- 12                  harbors and roadsteads and waterfront
- 13                  improvements; and
- 14           (C) Any matters related to the foregoing;
- 15       (3) Shall exercise such power and control over ferries as
- 16                  it may deem proper in carrying out its duties
- 17                  concerning water transportation in the state;
- 18       (4) Shall:
- 19           (A) Exercise general supervision over aeronautics
- 20                  within the state and, in connection therewith,
- 21                  encourage, foster, and assist in the development
- 22                  of aeronautics in the state, and encourage the



1 establishment of airports and air navigation  
2 facilities;

3 (B) Cooperate with and assist the federal government  
4 and other persons in the development of  
5 aeronautics; and

6 (C) Seek to coordinate the aeronautical activities of  
7 the State with those activities of the federal  
8 government;

9 (5) May use the facilities and services of any department,  
10 board, commission, or agency of the State or counties;

11 (6) May sue and be sued;

12 (7) Shall have a seal and may alter the seal at its  
13 pleasure;

14 (8) May make and execute contracts and all other  
15 instruments necessary or convenient for the exercise  
16 of its powers and functions under this chapter;

17 (9) Shall establish bylaws for its organization and  
18 internal management;

19 (10) Shall establish bylaws for the adoption of rules and  
20 shall adopt rules, through the administrator, to  
21 effectuate this chapter pursuant to chapter 91;



- 1           (11) Shall adopt an annual budget for its operations and  
2                   maintenance program and its capital facilities  
3                   program;
- 4           (12) Shall appoint officers, agents, and employees through  
5                   the administrator; prescribe their duties and  
6                   qualifications; and fix their salaries;
- 7           (13) May own, sell, lease, hold, clear, improve, and  
8                   rehabilitate real, personal, or mixed property, and  
9                   assign, exchange, transfer, convey, lease, sublease,  
10                  or encumber any airport or commercial harbor, or any  
11                  project, improvement, or facility related thereto;
- 12          (14) Shall develop, construct, reconstruct, rehabilitate,  
13                  improve, alter, or repair, or provide for the  
14                  development, construction, reconstruction,  
15                  rehabilitation, improvement, alteration, or repair of,  
16                  any airport or commercial harbor, or any project,  
17                  improvement, or facility related thereto, and  
18                  designate a qualified person as its agent for that  
19                  purpose; and own, hold, assign, transfer, convey,  
20                  exchange, lease, sublease, or encumber any airport or  
21                  commercial harbor or any project, improvement, or  
22                  facility related thereto;



- 1           (15) Shall arrange or initiate appropriate action for the  
2           planning, replanning, opening, grading, relocating, or  
3           closing of streets, roads, roadways, alleys,  
4           easements, piers, or other places; the furnishing of  
5           facilities; the acquisition of property or property  
6           rights; and the furnishing of property, development  
7           rights, or services in connection with any airport or  
8           commercial harbor, or any project, improvement, or  
9           facility related thereto;
- 10          (16) May grant options or renew any lease entered into by  
11          it in connection with any project, on terms and  
12          conditions as it deems advisable;
- 13          (17) May provide advisory, consultative, training, and  
14          educational services; technical assistance; and  
15          advice, to any person, either public or private, to  
16          carry out the purposes of this chapter, and engage the  
17          services of consultants on a contractual basis for  
18          rendering professional and technical assistance and  
19          advice;
- 20          (18) Shall procure insurance against any loss in connection  
21          with its property and other assets and operations, in



- 1 such amounts and from such insurers as it deems  
2 desirable, or provide for self-insurance;
- 3 (19) May accept and receive gifts or grants in any form  
4 from any person, public entity, or source; provided  
5 that the grants and gifts shall be used for port  
6 authority purposes;
- 7 (20) May pledge or assign all or any part of the moneys,  
8 fees, rents, charges, or other revenues and proceeds  
9 derived by the port authority from the proceeds of  
10 insurance or condemnation awards for the loss of  
11 revenues or incurring of costs and expenses because of  
12 any action taken by the port authority;
- 13 (21) Shall impose, prescribe, and collect rates, rentals,  
14 fees, or charges for the lease, use, and services of  
15 its airport and commercial harbor facilities at least  
16 sufficient to pay the costs of operation, maintenance,  
17 and repair, if any, and the required payments of the  
18 principal of, and interest on, all bonds issued or  
19 assumed by the port authority and reserves therefor;
- 20 (22) May engage in economic development programs and  
21 contract with the department of business, economic



- 1 development, and tourism or nonprofit corporations in  
2 the furtherance of economic development;
- 3 (23) May take all actions necessary under emergencies such  
4 as hurricanes, tsunamis, and other natural disasters;
- 5 (24) Shall plan, construct, operate, and maintain all  
6 commercial harbor and airport facilities in the state,  
7 including the acquisition and use of lands necessary  
8 to stockpile dredged spoils without the approval of  
9 county agencies, notwithstanding any other law to the  
10 contrary;
- 11 (25) May issue revenue bonds and special facility revenue  
12 bonds in its name pursuant to chapter 39 without  
13 limitations, but not in excess of such principal  
14 amounts as are necessary for its purposes or specified  
15 in covenants with bondholders;
- 16 (26) May invest and secure its moneys in accordance with  
17 chapters 36 and 38;
- 18 (27) May take public and private property for use in  
19 furthering any of the purposes of the port authority  
20 or as otherwise provided by law; provided that all  
21 proceedings for condemnation shall be conducted in  
22 accordance with chapter 101;





1           (28) May provide compensation, allowance, or other  
2                    assistance to any person for relocation or  
3                    displacement caused by the acquisition of land for  
4                    airport or commercial harbor purposes;

5           (29) May hire or contract law enforcement personnel,  
6                    notwithstanding any other law to the contrary; and

7           (30) May do any and all things necessary to carry out its  
8                    purposes and exercise the powers given to it in this  
9                    chapter.

10           (b) Jurisdiction over aeronautics, airports, commercial  
11 harbors, and maritime functions, including airport functions  
12 under the department of transportation's airports division and  
13 commercial harbor and maritime functions under the department of  
14 transportation's harbors division shall be transferred to the  
15 port authority on July 1, 2007."

16           SECTION 3. **Port authority task force.** (a) There is  
17 created a temporary port authority task force within the  
18 governor's office for administrative purposes, which shall be  
19 chaired by the governor or the governor's designee, and the  
20 following other members to be appointed by the governor:

21           (1) The director of transportation or the director's  
22                    designee;



- 1           (2) The chairperson of the board of natural resources, or
- 2           the chairperson's designee;
- 3           (3) The director of health or the director's designee;
- 4           (4) The adjutant general or the adjutant general's
- 5           designee;
- 6           (5) The chairperson of the board of trustees of the office
- 7           of Hawaiian affairs or the chairperson's designee;
- 8           (6) The director of business, economic development, and
- 9           tourism or the director's designee;
- 10          (7) Two members from a list of nominees submitted by the
- 11          president of the senate;
- 12          (8) Two members from a list of nominees submitted by the
- 13          speaker of the house of representatives;
- 14          (9) Four members, each representing one of the four
- 15          counties of Hawaii, Maui, and Kauai, and the city and
- 16          county of Honolulu;
- 17          (10) Representatives of the following federal departments
- 18          or agencies, who shall be requested to assist the task
- 19          force:
- 20                (A) The United States Department of Defense;
- 21                (B) The United States Department of Homeland
- 22                Security;



- 1 (C) The United States Environmental Protection  
2 Agency;
- 3 (D) The United States Coast Guard; and
- 4 (E) The Federal Aviation Administration;
- 5 (11) Representatives of labor organizations in Hawaii,  
6 including the Hawaii Government Employees Association,  
7 the United Public Workers, and the International  
8 Longshoremen's and Warehousemen's Union;
- 9 (12) Representatives from Hawaii's environmental community;  
10 and
- 11 (13) Other interested public or private stakeholders who  
12 the governor believes will be of assistance to the  
13 functions of the task force, including members having  
14 extensive knowledge, expertise, or experience in such  
15 areas as economics, finance, development, maritime  
16 issues, land transportation issues, airport planning  
17 issues, planning, labor, and related areas.
- 18 (b) The members of the task force shall serve without  
19 compensation, but shall be reimbursed for expenses, including  
20 travel expenses, necessary for the performance of their duties.



1 (c) The task force shall be convened by the governor or  
2 the governor's designee and shall accomplish the following tasks  
3 prior to December 31, 2006:

4 (1) Study the respective missions and roles of the  
5 affected departments and agencies to determine which  
6 existing departmental missions and roles can be  
7 eliminated, and which are legitimate, necessary, and  
8 must be preserved, either intact or modified, in the  
9 port authority;

10 (2) Determine and define which new missions and roles, if  
11 any, need to be created for the port authority;

12 (3) Determine which departmental agencies and programs  
13 must be preserved intact or modified to carry out the  
14 new missions and roles as determined in paragraph (2)  
15 by designing a new organizational structure for the  
16 port authority;

17 (4) Determine what policies need to be established,  
18 modified, or eliminated to guide the new port  
19 authority;

20 (5) Develop duties, responsibilities, and powers of the  
21 new port authority;



- 1           (6) Ensure that no federal mandates, requirements, laws,  
2           or rules are violated and that no federal funding is  
3           jeopardized by the consolidation;
- 4           (7) Provide for the establishment of a port authority fund  
5           having separate accounts for airport and commercial  
6           harbor functions;
- 7           (8) Provide for the imposition of fees to be assessed for  
8           arriving or departing passengers on air or sea  
9           vessels, to be used to fund infrastructure  
10          improvements;
- 11          (9) Address civil service issues, and ensure that no  
12          current personnel in the affected departments are  
13          terminated by appropriate placements or transfers or  
14          other means;
- 15          (10) Address and resolve all other relevant public policy  
16          issues and objectives affecting the establishment of a  
17          port authority, including those relating to enhancing  
18          security, protecting the environment, improving  
19          government efficiency, ensuring effective enforcement,  
20          standardizing criteria regarding the sizes of vessels,  
21          and resolving all other appropriate federal, state,  
22          and county issues; and



1           (11) Draft necessary proposed legislation to implement the  
2                establishment of a port authority.

3           (d) The task force shall perform its duties guided by the  
4 following principles:

5           (1) Providing user-friendly services;

6           (2) Use of best practices in management and operations;

7           (3) Use of economies of scale;

8           (4) Eliminating duplicative or outmoded functions and  
9                activities;

10          (5) Enhancing productivity;

11          (6) Eliminating unnecessary regulation;

12          (7) Redesigning processes to increase efficiency, cut  
13               costs, and reduce public inconvenience; and

14          (8) Realizing significant long-term savings.

15          (e) The members of the task force shall be appointed by  
16 the governor within thirty days of the effective date of this  
17 Act. The governor shall convene the first meeting of the task  
18 force no later than thirty days after the last member is  
19 appointed.

20          (f) The task force shall submit to the legislature and the  
21 governor:



1 (1) An interim report on its progress no later than  
2 October 31, 2006; and

3 (2) A final report, including necessary proposed  
4 legislation to transfer the functions, powers, duties,  
5 lands, personal property, and personnel necessary to  
6 accomplish the purposes set forth in this Act, for  
7 passage and enactment during the regular session of  
8 2007, at least twenty days prior to the convening of  
9 the regular session of 2007.

10 SECTION 4. It is the intent of this Act not to jeopardize  
11 the receipt of any federal aid nor to impair the obligation of  
12 the State or any agency thereof to the holders of any bond  
13 issued by the State or by any such agency, and to the extent,  
14 and only to the extent, necessary to effectuate this intent, the  
15 governor may modify the strict provisions of this Act, but shall  
16 promptly report any such modification with reasons therefor to  
17 the legislature at its next session thereafter for review by the  
18 legislature.

19 SECTION 5. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$ \_\_\_\_\_ or so  
21 much thereof as may be necessary for fiscal year 2006-2007 for  
22 the temporary port authority task force to carry out its duties.



# H.B. NO. 263

1 SECTION 6. This Act does not affect rights and duties that  
 2 matured, penalties that were incurred, and proceedings that were  
 3 begun, before its effective date.

4 SECTION 7. This Act shall be liberally construed to  
 5 accomplish the purposes set forth herein. If any provision of  
 6 this Act, or the application thereof to any person or  
 7 circumstance, is held invalid, the invalidity shall not affect  
 8 the other provisions or applications of this Act that can be  
 9 given effect without the invalid provision or application, and  
 10 to this end the provisions of this Act are severable.

11 SECTION 8. This Act shall take effect on July 1, 2006,  
 12 except that section 2 shall take effect on July 1, 2007.  
 13

INTRODUCED BY:

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# H.B. NO. 2634

**Report Title:**

Port Authority; Establishment.

**Description:**

Establishes the Hawaii state port authority. Empowers the authority to administer a statewide system of harbors and airports. Establishes a port authority task force to review the consolidation of airport and harbor functions and draft necessary implementing legislation.

