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# A BILL FOR AN ACT

RELATING TO COMMERCIAL HARBORS MODERNIZATION.

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

1           SECTION 1. To meet the economic needs of the state, the  
2 harbors division of the department of transportation must  
3 provide suitable harbor facilities and berthing piers, which in  
4 turn ensures the efficient and timely delivery and shipment of  
5 goods imported into the state. Ocean surface transportation is  
6 our state's lifeline. It remains the only viable means to  
7 service the largest share of Hawaii's economic needs. However,  
8 Hawaii's aging commercial harbor system has not kept pace with  
9 our growing economy, and Hawaii's commercial ports statewide are  
10 experiencing competition for berthing rights for cargo, fuel,  
11 and cruise ship activities, and severe congestion in harbor  
12 facilities. Harbor users, the state administration, and the  
13 legislature recognize that it is now extremely critical to  
14 upgrade existing port facilities and develop harbor improvements  
15 in an expedited manner. The Hawaii Harbors Users Group, a  
16 maritime transportation industry group, was formed in 2005,  
17 because the industry recognized that Hawaii is facing a shortage  
18 of port facilities statewide. Its goal is to help the State



1 identify and prioritize Hawaii's harbor improvement needs. The  
2 Hawaii Harbors Users Group has completed research that predicts  
3 that if Hawaii's harbor infrastructure is not improved, the loss  
4 of real domestic product (in 2007 dollars) could amount to more  
5 than \$50,000,000,000 by the year 2030. In comparison, an  
6 assessment of immediate commercial harbor needs statewide is  
7 estimated to cost in the range of \$850,000,000.

8 Under its statutory mandate, the harbors division focuses  
9 on essential daily management and operations of the commercial  
10 harbor system rather than development of new expansion  
11 opportunities. To expeditiously develop critically needed  
12 harbor infrastructure improvements and curtail statewide  
13 economic hardships that will occur if the harbors reach maximum  
14 cargo handling capacity by the year 2011 as currently projected,  
15 the harbors division partnered with Aloha Tower development  
16 corporation, an entity with a development-oriented mission,  
17 statutory powers, and expertise in the development of state-  
18 owned properties for development of Honolulu harbor pursuant to  
19 this Act.

20 The harbors division is additionally stymied by the lack of  
21 funding necessary to develop costly wharves and cargo handling  
22 terminals and its traditional structure limits its ability to



1 consider development-oriented financing options such as public  
2 or private partnerships, but the Aloha Tower development  
3 corporation is empowered to do such things. A partnership with  
4 the Aloha Tower development corporation, which has jurisdiction  
5 over a portion of Honolulu harbor, can also assist the harbors  
6 division by providing financial support from its limited  
7 commercial development along the downtown urban waterfront.  
8 Revenues generated from commercial development are proposed to  
9 be directed toward the funding of commercial harbor system  
10 infrastructure improvements.

11 The legislature, together with the administration and key  
12 harbor users, recognizes that extraordinary means must be  
13 employed to catch up on deferred harbor infrastructure  
14 development. Accordingly, the legislature finds that the  
15 harbors division should be given further development tools to  
16 accomplish the formidable task of bringing the State's  
17 commercial harbors up to the standards needed to sustain  
18 economic growth. The purpose of this Act is to expand the  
19 formal partnership for development of Honolulu harbor between  
20 the Aloha Tower development corporation and the department of  
21 transportation harbors division to a statewide jurisdiction for  
22 the implementation of the commercial harbors modernization plan.



1 SECTION 2. Section 171-59, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Disposition of public lands for airline, aircraft,  
4 airport-related, agricultural processing, cattle feed  
5 production, aquaculture, marine, maritime, and maritime-related  
6 operations may be negotiated without regard to the limitations  
7 set forth in subsection (a) and section 171-16(c); provided  
8 that:

- 9 (1) The disposition encourages competition within the  
10 aeronautical, airport-related, agricultural,  
11 aquaculture, maritime, and maritime-related  
12 industries;
- 13 (2) The disposition shall not exceed a maximum term of  
14 thirty-five years~~[+and]~~, except in the case of  
15 maritime and maritime-related operations, which may  
16 provide for a maximum term of seventy years; and
- 17 (3) The method of disposition of public lands for cattle  
18 feed production as set forth in this subsection shall  
19 not apply after December 31, 1988.

20 For the ~~[purpose]~~ purposes of this subsection:



1       ~~["agricultural processing"]~~ "Agricultural processing" means  
2 the processing of agricultural products, including dairying,  
3 grown, raised, or produced in Hawaii~~["airport-related"]~~.

4       "Airport-related" means a purpose or activity that requires  
5 air transportation to achieve that purpose or activity~~and~~  
6 ~~"maritime-related"]~~.

7       "Maritime-related" means a purpose or activity that  
8 requires and is directly related to the loading, off-loading,  
9 storage, or distribution of goods and services of the maritime  
10 industry."

11       SECTION 3. Section 206J-2, Hawaii Revised Statutes, is  
12 amended by amending the definition of "development corporation"  
13 to read as follows:

14       "Development corporation" means the Aloha Tower  
15 ~~[Development Corporation]~~ development corporation established by  
16 section 206J-4."

17       SECTION 4. Section 206J-4, Hawaii Revised Statutes, is  
18 amended by amending its title and subsections (a) and (b) to  
19 read as follows:

20       "**§206J-4 Aloha Tower** ~~[Development Corporation]~~  
21 development corporation; established. (a) There is established  
22 the Aloha Tower ~~[Development Corporation]~~ development



1 corporation, which shall be a public body corporate and politic,  
2 a public instrumentality, and an agency of the State. The  
3 development corporation shall be placed within the department of  
4 business, economic development, and tourism for administrative  
5 purposes, pursuant to section 26-35.

6 (b) [~~The~~] Except as provided in section 206J-5.5, the  
7 development corporation shall consist of a board of directors  
8 having seven voting members. The director of business, economic  
9 development, and tourism, the director of transportation, the  
10 chairperson of the board of land and natural resources, and the  
11 mayor of the city and county of Honolulu, or their respective  
12 designated representatives, shall serve as ex officio voting  
13 members. Three members from the public at large shall be  
14 appointed by the governor for staggered terms pursuant to  
15 section 26-34 and shall also serve as voting members; provided  
16 that no public member shall be an officer or employee of the  
17 State or its political subdivisions. All members shall continue  
18 in office until their respective successors have been appointed.  
19 The board, by a majority vote, shall elect a chairperson from  
20 within its membership."

21 SECTION 5. Section 206J-5.5, Hawaii Revised Statutes, is  
22 amended to read as follows:



1            "[+]§206J-5.5[+] Partnership with department of  
2 transportation for [~~Honolulu harbor~~] the implementation of the  
3 commercial harbors modernization plan and the establishment of  
4 the harbors modernization group. (a) Consistent with its  
5 general powers under this chapter, the development corporation  
6 [~~may~~] shall establish a subgroup called the harbors  
7 modernization group to undertake projects for [~~Honolulu harbor~~  
8 and its adjacent lands,] the commercial harbors modernization  
9 plan in subsection (b), which are under the jurisdiction of the  
10 department of transportation. Notwithstanding any provision in  
11 section 206J-17 to the contrary, payments to the development  
12 corporation for its administrative and operational expenses  
13 shall be made by the department of transportation and deposited  
14 into the Aloha Tower fund in a subaccount designated for [~~the~~  
15 ~~particular development project~~.] commercial harbors  
16 modernization plan projects. The department of transportation  
17 shall delegate to the development corporation the implementation  
18 of commercial harbors modernization plan projects. All  
19 projects, prior to implementation by the development  
20 corporation, shall be approved by the director of transportation  
21 and the governor. After approval by the director of  
22 transportation and the governor, the expending authority for the



1 approved projects shall be delegated to the development  
2 corporation.

3 ~~[(b) All appropriations for the development of Honolulu~~  
4 ~~harbor by the development corporation shall be received and~~  
5 ~~administered by the department of transportation. The department~~  
6 ~~of transportation shall retain fiscal management and oversight~~  
7 ~~of all project cost expenditures, budget, and contract~~  
8 ~~approvals.]~~

9 (b) The harbors modernization group shall have  
10 jurisdiction over harbors projects that shall collectively be  
11 known as the commercial harbors modernization plan. These  
12 harbor projects shall be as follows:

13 (1) Honolulu harbor. Development of infrastructure,  
14 expansion of facilities, and tenant relocations,  
15 including the development of the new Kapalama  
16 container terminal;

17 (2) Kahului harbor. Development of infrastructure,  
18 expansion of facilities, tenant relocations, and  
19 acquisition of lands, including the West harbor barge  
20 or ferry slip or both, West harbor dredging and  
21 breakwater, West harbor cruise terminal, Pier 1 fuel





1 line replacement and upgrade, East harbor breakwater,  
2 and Pier 2B strengthening;

3 (3) Hilo harbor. Development of infrastructure, expansion  
4 of facilities, tenant relocations, and acquisition of  
5 lands, including the Pier 4 interisland cargo  
6 terminal;

7 (4) Kawaihae harbor. Development of infrastructure,  
8 expansion of facilities, tenant relocations,  
9 acquisition of lands, including the Pier 2 terminal  
10 and barge improvements, Pier 2 extension and terminal,  
11 and Pier 4 and liquid bulk terminals;

12 (5) Kalaeloa harbor. Development of infrastructure,  
13 expansion of facilities, tenant relocations, and  
14 acquisition of lands, including the West harbor  
15 infrastructure, Pier 4 dedicated fuel pier, and  
16 extension of the fuel line; and

17 (6) Nawiliwili harbor. Development of infrastructure,  
18 expansion of facilities, tenant relocations, and  
19 acquisition of lands, including the new multi-use  
20 pier.

21 (c) For the purposes of this section, the chief executive  
22 officer shall have the power to appoint officers, agents, and



1 employees, prescribe their duties and qualifications, and fix  
2 their salaries, without regard to chapter 76.

3 (d) Land disposition matters in projects identified in the  
4 commercial harbors modernization plan, including land  
5 acquisition, leasing, and conveyance, and acquisition of  
6 easements or rights-of-ways, shall continue to be under the  
7 jurisdiction of the board of land and natural resources pursuant  
8 to chapter 171.

9 (e) The harbors modernization group, when acting pursuant  
10 to subsection (f), shall retain all the powers of the  
11 development corporation under sections 206J-5 to 206J-21.

12 (f) Except as otherwise provided in this subsection, the  
13 harbors modernization group shall be comprised of six voting  
14 members appointed by the governor to the development corporation  
15 in addition to those members appointed under section 206J-4(b),  
16 and pursuant to section 26-34.

17 The harbors modernization group shall consist of:

18 (1) The director of budget and finance, or a designated  
19 representative, who shall serve as an ex officio  
20 voting member;

21 (2) Two public members from the maritime industry who  
22 shall be directly involved with a harbor or off-shore



1 mooring facility that is primarily for the movement of  
2 commercial cargo, passenger, and fishing vessels  
3 entering, leaving, or traveling within the state  
4 harbor system, or directly involved with an activity  
5 that requires and is directly related to the loading,  
6 off-loading, storage, or distribution of goods and  
7 services by means of seaborne transportation; and  
8 (3) The mayors of the counties of Hawaii, Maui, and Kauai,  
9 or their designated representatives, who shall serve  
10 as ex officio voting members.

11 The members of the harbors modernization group shall serve  
12 for four year terms and shall continue in office until their  
13 respective successors have been appointed. The chairperson of  
14 the corporation board shall serve as the chairperson of the  
15 harbors modernization group.

16 The members of the harbors modernization group shall act  
17 and be counted in determining quorum and majority for  
18 development corporation actions only with respect to the  
19 directing of planning, design, construction, and financing of  
20 the harbor projects identified in the commercial harbors  
21 modernization plan. A majority of members of the development  
22 corporation and four of the six members of the harbor



1 modernization group shall constitute quorum for matters relating  
2 to the directing of planning, design, construction, and  
3 financing of the harbor projects identified in the commercial  
4 harbors modernization plan. A majority of the voting members of  
5 the quorum shall be required to validate any act relating to the  
6 harbor projects. These members shall serve without  
7 compensation, but each member shall be reimbursed for expenses,  
8 including travel expenses, incurred in the performance of their  
9 duties.

10 [~~e~~] (g) Subject to existing contractual and statutory  
11 commitments to the department of transportation for any losses  
12 in revenue under this chapter, the development corporation may  
13 apply any revenues derived from commercial development projects  
14 in the Aloha Tower project area to defray the cost of harbor  
15 infrastructure improvements incurred within the [~~State.~~] state."

16 SECTION 6. The department of transportation is authorized  
17 to issue harbor revenue bonds for harbor capital improvement  
18 projects authorized in section 7 of this Act and designated to  
19 be financed by revenue bond funds or by general obligation bond  
20 funds with debt service cost to be paid from special funds, in  
21 such principal amount as shall be required to yield the amounts  
22 appropriated for such capital improvement program projects, and,



1 if so determined by the department and approved by the governor,  
2 such additional amounts as may be deemed necessary by the  
3 department to pay interest on such revenue bonds during the  
4 estimated construction period of the capital improvement project  
5 for which such harbor revenue bonds are issued to establish,  
6 maintain, or increase reserves for the harbor revenue bonds or  
7 harbor revenue bonds heretofore authorized (whether authorized  
8 and issued or authorized and still unissued), and to pay the  
9 expenses of issuance of such bonds. The aforementioned harbor  
10 revenue bonds shall be issued pursuant to the provisions of part  
11 III of chapter 39, Hawaii Revised Statutes, as the same may be  
12 amended from time to time. The principal of and interest on  
13 harbor revenue bonds, to the extent not paid from the proceeds  
14 of such bonds, shall be payable solely from and secured solely  
15 by the revenues derived from harbors and related facilities  
16 under the ownership of the State or operated and managed by the  
17 department, including rents, mooring, wharfage, dockage,  
18 pilotage fees, and other fees or charges presently or hereafter  
19 derived from or arising through the ownership, operation, and  
20 management of harbor and related facilities and the furnishing  
21 and supplying of the services thereof. The expenses of the  
22 issuance of such harbor revenue bonds shall, to the extent not



1 paid from the proceeds of such bonds, be paid from the harbor  
2 special fund.

3 The governor, in the governor's discretion, is authorized  
4 to use the harbor revenue fund to finance those projects  
5 authorized in section 7 of this Act where the method of  
6 financing is designated to be by harbor revenue bond funds.

7 SECTION 7. The following sums, or so much thereof as may  
8 be sufficient to accomplish the purposes designated herein, are  
9 hereby appropriated or authorized, as the case may be, from the  
10 harbor revenue bond funds for the fiscal years beginning July 1,  
11 2008, and ending June 30, 2012, and all intervening fiscal  
12 years. The sums appropriated shall be expended by the  
13 department of transportation for the purposes of this Act. The  
14 department of transportation, as expending agency, shall  
15 delegate to the Aloha Tower development corporation the  
16 implementation of the capital improvement projects authorized in  
17 this Act and subsequent acts, for the projects identified as the  
18 commercial harbors modernization plan described in chapter 206J,  
19 Hawaii Revised Statutes. After approval of the project by the  
20 director of transportation and the governor, the expending  
21 authority for the approved projects shall be delegated to the



1 Aloha Tower development corporation. The authorized capital  
2 improvement projects are:

3 1. HMP - Kapalama military reservation improvements,  
4 Honolulu harbor, Oahu  
5 Design and construction for the development of a new  
6 container terminal facility.

7	Design	\$
8	Construction	\$
9	Total funding	\$

10 2. HMP - Kalaeloa Barbers Point harbor infrastructure  
11 improvements, Oahu  
12 Design of utility and infrastructure improvements.

13	Design	\$
14	Total funding	\$

15 3. HMP - Kalaeloa Barbers Point harbor fuel pier  
16 improvements, Oahu  
17 Design of new fuel pier and other site-related  
18 improvements.

19	Design	\$
20	Total funding	\$

21 4. HMP - Pier 4 interisland cargo terminal, Hilo harbor,  
22 Hawaii



1 Design of additional interisland cargo terminal areas  
2 including a pier, yard, roadways, and utilities.  
3 Design \$  
4 Total funding \$  
5 5. HMP - Kahului harbor land acquisition and  
6 improvements, Maui  
7 Purchase of additional land and subsequent design of  
8 improvements for the acquired land.  
9 Land \$  
10 Design \$  
11 Total funding \$  
12 6. MP - West harbor barge/ferry slip, Kahului harbor,  
13 Maui  
14 Design for a new West harbor barge/ferry slip and  
15 associated site work improvements.  
16 Design \$  
17 Total Funding \$  
18 7. HMP - West harbor dredging and breakwater, Kahului  
19 harbor, Maui  
20 Design for West harbor breakwater, dredging, and  
21 associated improvements.





1	Design	\$
2	Total funding	\$
3	8. HMP - West harbor cruise terminal, Kahului harbor,	
4	Maui	
5	Design of a cruise terminal including paving,	
6	utilities, security, and other site work improvements.	
7	Design	\$
8	Total funding	\$
9	9. HMP - East harbor breakwater, Kahului harbor, Maui	
10	Design of the East harbor breakwater and related	
11	improvements.	
12	Design	\$
13	Total funding	\$
14	10. HMP - Pier 2 improvements, Kahului harbor, Maui	
15	Design of improvements to the pier, including	
16	strengthening, bollard replacement, dredging, and	
17	environmental permitting.	
18	Design	\$
19	Total funding	\$





1 Design \$  
2 Total funding \$  
3 15. HMP - Construction management support, statewide  
4 Construction consultant services during construction  
5 of harbors modernization plan projects at harbor  
6 facilities statewide.

7 Construction \$  
8 Total funding \$

9 16. HMP - Harbors division capital improvement program  
10 staff cost, statewide  
11 Costs related to wages and fringe benefits for  
12 permanent harbors modernization plan project-funded  
13 positions.

14 Plans \$  
15 Total funding \$

16 The appropriations made for capital improvement projects  
17 authorized by this Act shall not lapse unless unencumbered as of  
18 June 30, 2012. All appropriations which are unencumbered as of  
19 June 30, 2012, shall lapse as of that date.

20 SECTION 8. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect on July 1, 2020;

2 provided that:

3 (1) The amendments to section 206J-5.5, Hawaii Revised  
4 Statutes, in section 5 of this Act shall be repealed  
5 on June 30, 2016, and section 206J-5.5, Hawaii Revised  
6 Statutes, shall be reenacted in the form in which it  
7 read on the day before the effective date of this Act;  
8 and

9 (2) On June 30, 2016, any moneys or funds under the  
10 management of the harbors modernization group pursuant  
11 to section 206J-5.5, Hawaii Revised Statutes, shall be  
12 deposited into the department of transportation harbor  
13 special fund.



**Report Title:**

Harbors; Modernization Plan; Capital Improvement Projects;

**Description:**

Expands the authority of the Aloha Tower Development Corporation to assist in the development of the statewide harbors modernization plan by establishing the Harbors Modernization Group. Authorizes the Department of Transportation to issue revenue bonds to finance the harbor improvements. Makes appropriation. (HB3406 HD1)

