
A BILL FOR AN ACT

RELATING TO HARBORS.

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

1 PART I.

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



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

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



1 The harbors division is additionally stymied by the lack of
2 funding necessary to develop costly wharves and cargo handling
3 terminals and its traditional structure limits its ability to
4 consider development-oriented financing options such as public
5 or private partnerships, but the Aloha Tower development
6 corporation is empowered to do such things. A partnership with
7 the Aloha Tower development corporation, which has jurisdiction
8 over a portion of Honolulu harbor, can also assist the harbors
9 division by providing financial support from its limited
10 commercial development along the downtown urban waterfront.
11 Revenues generated from commercial development are proposed to
12 be directed toward the funding of commercial harbor system
13 infrastructure improvements.

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



1 the Aloha Tower development corporation and the department of
2 transportation harbors division to a statewide jurisdiction for
3 the implementation of the commercial harbors modernization plan.

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

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

12 (1) The disposition encourages competition within the
13 aeronautical, airport-related, agricultural,
14 aquaculture, maritime, and maritime-related
15 industries;

16 (2) The disposition shall not exceed a maximum term of
17 thirty-five years[~~;~~ and], except in the case of
18 maritime and maritime-related operations, which may
19 provide for a maximum term of seventy years; and

20 (3) The method of disposition of public lands for cattle
21 feed production as set forth in this subsection shall
22 not apply after December 31, 1988.



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

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

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

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

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

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

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

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



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

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



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

3 "[+]§206J-5.5[+] Partnership with department of
4 transportation for [~~Honolulu harbor.~~] the implementation of the
5 commercial harbors modernization plan and the establishment of
6 the harbors modernization group. (a) Consistent with its

7 general powers under this chapter, the development corporation
8 [~~may~~] shall establish a subgroup called the harbors

9 modernization group to undertake projects for [~~Honolulu harbor~~
10 and its adjacent lands,] the commercial harbors modernization

11 plan in subsection (b), which are under the jurisdiction of the
12 department of transportation. Notwithstanding any provision in

13 section 206J-17 to the contrary, payments to the development
14 corporation for its administrative and operational expenses

15 shall be made by the department of transportation and deposited
16 into the Aloha Tower fund in a subaccount designated for [~~the~~

17 ~~particular development project.~~] commercial harbors

18 modernization plan projects. The department of transportation

19 shall delegate to the development corporation the implementation
20 of commercial harbors modernization plan projects. All

21 projects, prior to implementation by the development

22 corporation, shall be approved by the director of transportation



1 and the governor. After approval by the director of
2 transportation and the governor, the expending authority for the
3 approved projects shall be delegated to the development
4 corporation.

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

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

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

19 (2) Kahului harbor. Development of infrastructure,
20 expansion of facilities, tenant relocations, and
21 acquisition of lands, including the West harbor barge
22 or ferry slip or both, West harbor dredging and



1 breakwater, West harbor cruise terminal, Pier 1 fuel
2 line replacement and upgrade, East harbor breakwater,
3 and Pier 2B strengthening;

4 (3) Hana Harbor. Development of infrastructure,
5 demolition, as necessary, and expansion of facilities
6 and acquisition of lands;

7 (4) Hilo harbor. Development of infrastructure, expansion
8 of facilities, tenant relocations, and acquisition of
9 lands, including the Pier 4 interisland cargo
10 terminal;

11 (5) Kawaihae harbor. Development of infrastructure,
12 expansion of facilities, tenant relocations,
13 acquisition of lands, including the Pier 2 terminal
14 and barge improvements, Pier 2 extension and terminal,
15 and Pier 4 and liquid bulk terminals;

16 (6) Kalaeloa harbor. Development of infrastructure,
17 expansion of facilities, tenant relocations, and
18 acquisition of lands, including the West harbor
19 infrastructure, Pier 4 dedicated fuel pier, and
20 extension of the fuel line; and

21 (7) Nawiliwili harbor. Development of infrastructure,
22 expansion of facilities, tenant relocations, and



1 acquisition of lands, including the new multi-use
2 pier.

3 (c) For the purposes of this section, the chief executive
4 officer shall have the power to appoint officers, agents, and
5 employees, prescribe their duties and qualifications, and fix
6 their salaries, without regard to chapter 76.

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

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

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

21 The harbors modernization group shall consist of:



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

4 (2) Two public members from the maritime industry who
5 shall be directly involved with a harbor or off-shore
6 mooring facility that is primarily for the movement of
7 commercial cargo, passenger, and fishing vessels
8 entering, leaving, or traveling within the state
9 harbor system, or directly involved with an activity
10 that requires and is directly related to the loading,
11 off-loading, storage, or distribution of goods and
12 services by means of seaborne transportation; and

13 (3) The mayors of the counties of Hawaii, Maui, and Kauai,
14 or their designated representatives, who shall serve
15 as ex officio voting members.

16 The members of the harbors modernization group shall serve
17 for four year terms and shall continue in office until their
18 respective successors have been appointed. The chairperson of
19 the corporation board shall serve as the chairperson of the
20 harbors modernization group.

21 The members of the harbors modernization group shall act
22 and be counted in determining quorum and majority for



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

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

21 SECTION 6. The department of transportation is authorized
22 to issue harbor revenue bonds for harbor capital improvement



1 projects authorized in section 7 of this Act and designated to
2 be financed by revenue bond funds or by general obligation bond
3 funds with debt service cost to be paid from special funds, in
4 such principal amount as shall be required to yield the amounts
5 appropriated for such capital improvement program projects, and,
6 if so determined by the department and approved by the governor,
7 such additional amounts as may be deemed necessary by the
8 department to pay interest on such revenue bonds during the
9 estimated construction period of the capital improvement project
10 for which such harbor revenue bonds are issued to establish,
11 maintain, or increase reserves for the harbor revenue bonds or
12 harbor revenue bonds heretofore authorized (whether authorized
13 and issued or authorized and still unissued), and to pay the
14 expenses of issuance of such bonds. The aforementioned harbor
15 revenue bonds shall be issued pursuant to the provisions of part
16 III of chapter 39, Hawaii Revised Statutes, as the same may be
17 amended from time to time. The principal of and interest on
18 harbor revenue bonds, to the extent not paid from the proceeds
19 of such bonds, shall be payable solely from and secured solely
20 by the revenues derived from harbors and related facilities
21 under the ownership of the State or operated and managed by the
22 department, including rents, mooring, wharfage, dockage,



1 pilotage fees, and other fees or charges presently or hereafter
2 derived from or arising through the ownership, operation, and
3 management of harbor and related facilities and the furnishing
4 and supplying of the services thereof. The expenses of the
5 issuance of such harbor revenue bonds shall, to the extent not
6 paid from the proceeds of such bonds, be paid from the harbor
7 special fund.

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

12 SECTION 7. The following sums, or so much thereof as may
13 be sufficient to accomplish the purposes designated herein, are
14 hereby appropriated or authorized, as the case may be, from the
15 harbor revenue bond funds for the fiscal years beginning July 1,
16 2008, and ending June 30, 2012, and all intervening fiscal
17 years. The sums appropriated shall be expended by the
18 department of transportation for the purposes of this Act. The
19 department of transportation, as expending agency, shall
20 delegate to the Aloha Tower development corporation the
21 implementation of the capital improvement projects authorized in
22 this Act and subsequent acts, for the projects identified as the



1 commercial harbors modernization plan described in chapter 206J,
 2 Hawaii Revised Statutes. After approval of the project by the
 3 director of transportation and the governor, the expending
 4 authority for the approved projects shall be delegated to the
 5 Aloha Tower development corporation. The authorized capital
 6 improvement projects are:

7 1. HMP - Kapalama military reservation improvements,
 8 Honolulu harbor, Oahu
 9 Design and construction for the development of a new
 10 container terminal facility.

11	Design	\$
12	Construction	\$
13	Total funding	\$

14 2. HMP - Kalaeloa Barbers Point harbor infrastructure
 15 improvements, Oahu
 16 Design of utility and infrastructure improvements.

17	Design	\$
18	Total funding	\$

19 3. HMP - Kalaeloa Barbers Point harbor fuel pier
 20 improvements, Oahu
 21 Design of new fuel pier and other site-related
 22 improvements.



1	Design	\$
2	Total funding	\$
3	4. HMP - Pier 4 interisland cargo terminal, Hilo harbor,	
4	Hawaii	
5	Design of additional interisland cargo terminal areas	
6	including a pier, yard, roadways, and utilities.	
7	Design	\$
8	Total funding	\$
9	5. HMP - Kahului harbor land acquisition and	
10	improvements, Maui	
11	Purchase of additional land and subsequent design of	
12	improvements for the acquired land.	
13	Land	\$
14	Design	\$
15	Total funding	\$
16	6. HMP - Hana harbor, Maui	
17	Development of infrastructure, demolition, as	
18	necessary, and expansion of facilities	
19	Total funding	\$
20	7. HMP - West harbor barge/ferry slip, Kahului harbor,	
21	Maui	



1 Design for a new West harbor barge/ferry slip and
2 associated site work improvements.
3 Design \$
4 Total Funding \$
5 8. HMP - West harbor dredging and breakwater, Kahului
6 harbor, Maui
7 Design for West harbor breakwater, dredging, and
8 associated improvements.
9 Design \$
10 Total funding \$
11 9. HMP - West harbor cruise terminal, Kahului harbor,
12 Maui
13 Design of a cruise terminal including paving,
14 utilities, security, and other site work improvements.
15 Design \$
16 Total funding \$
17 10. HMP - East harbor breakwater, Kahului harbor, Maui
18 Design of the East harbor breakwater and related
19 improvements.
20 Design \$
21 Total funding \$



- 1 11. HMP - Pier 2 improvements, Kahului harbor, Maui
- 2 Design of improvements to the pier, including
- 3 strengthening, bollard replacement, dredging, and
- 4 environmental permitting.
- 5 Design \$
- 6 Total funding \$
- 7 12. HMP - Kawaihae harbor development plan, Hawaii
- 8 Development plan for improving new terminal cargo
- 9 facilities at Kawaihae harbor.
- 10 Plans \$
- 11 Total funding \$
- 12 13. HMP - Pier 2 terminal improvements, Kawaihae harbor,
- 13 Hawaii
- 14 Design and construction of terminal improvements,
- 15 including paving, utilities, relocation of the harbor
- 16 agent's office, and interim ferry improvements.
- 17 Design \$
- 18 Construction \$
- 19 Total funding \$
- 20 14. HMP - Pier 4, Kawaihae harbor, Hawaii
- 21 Design of a multi-user pier 4 and associated site
- 22 work.



1 Design \$

2 Total funding \$

3 15. HMP - Multi-user pier 4, Nawiliwili harbor

4 Design of new pier improvements and related site and

5 utility work.

6 Design \$

7 Total funding \$

8 16. HMP - Construction management support, statewide

9 Construction consultant services during construction

10 of harbors modernization plan projects at harbor

11 facilities statewide.

12 Construction \$

13 Total funding \$

14 17. HMP - Harbors division capital improvement program

15 staff cost, statewide

16 Costs related to wages and fringe benefits for

17 permanent harbors modernization plan project-funded

18 positions.

19 Plans \$

20 Total funding \$

21 The appropriations made for capital improvement projects

22 authorized by this Act shall not lapse unless unencumbered as of



1 June 30, 2012. All appropriations which are unencumbered as of
2 June 30, 2012, shall lapse as of that date.

3 PART II

4 SECTION 8. Chapter 266, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§266- Hana harbor; jurisdiction. Notwithstanding any
8 law to the contrary, the department of transportation shall have
9 jurisdiction and administrative authority over Hana harbor,
10 excluding its small boat ramp facility. The Hana harbor small
11 boat ramp facility shall remain under the jurisdiction and
12 administrative authority of the department of land and natural
13 resources."

14 SECTION 9. All appropriations, records, equipment,
15 machines, files, supplies, contracts, books, papers, documents,
16 maps, and other personal property heretofore made, used,
17 acquired, or held by the department of land and natural
18 resources relating to the functions transferred to the
19 department of transportation shall be transferred with the
20 functions to which they relate.

21 SECTION 10. The jurisdiction, functions, powers, duties,
22 and authority exercised by the department of land and natural



1 resources pursuant to chapter 200, Hawaii Revised Statutes,
2 relating to the Hana harbor, excluding its small boat ramp
3 facility, shall be transferred to and conferred upon the
4 department of transportation by this Act and shall be performed
5 and enforced in the same manner as previously authorized,
6 entitled, or obligated except as otherwise authorized, directed,
7 or instructed by this Act.

8 The department of transportation shall succeed to all of
9 the rights and powers previously exercised, and all of the
10 duties and obligations incurred, by the department of land and
11 natural resources in the exercise of the functions, powers,
12 duties, and authority transferred, whether such functions,
13 powers, duties, and authority are mentioned in or granted in any
14 law, contract, or other document.

15 All rules, policies, procedures, guidelines, and other
16 material adopted or developed by the department of land and
17 natural resources to implement the provisions of the Hawaii
18 Revised Statutes which are reenacted or made applicable to the
19 department of transportation by this Act, shall remain in full
20 force and effect until amended or repealed by the department of
21 transportation pursuant to chapter 91, Hawaii Revised Statutes.

22 In the interim, every reference to the department of land and



1 natural resources or chairperson of the board of land and
2 natural resources in those rules, policies, procedures,
3 guidelines, and other material is amended to refer to the
4 department of transportation or director of transportation as
5 appropriate.

6 All deeds, leases, contracts, loans, agreements, permits,
7 or other documents executed or entered into by or on behalf of
8 the department of land and natural resources pursuant to the
9 provisions of the Hawaii Revised Statutes, which are reenacted
10 or made applicable to the department of transportation by this
11 Act, shall remain in full force and effect. Every reference to
12 the department of land and natural resources or the chairperson
13 of the board of land and natural resources therein shall be
14 construed as a reference to the department of transportation or
15 the director of transportation as appropriate.

16 SECTION 11. All executive orders, revocable permits,
17 easements, and rights of entry for the use of state lands issued
18 and granted to the department of land and natural resources for
19 use in connection with Hana harbor, excluding its small boat
20 ramp facility, shall be withdrawn or terminated and appropriate
21 land disposition for use in connection with Hana harbor,
22 excluding its small boat ramp facility, shall be made by the



1 department of transportation, as appropriate, subsequent to the
2 transfer of Hana harbor, excluding its small boat ramp facility,
3 to the department of transportation.

4 SECTION 12. All acts passed by the legislature during this
5 regular session of 2008, whether enacted before or after the
6 effective date of this Act shall be amended to conform to this
7 Act unless such acts specifically provide that this Act is being
8 amended.

9 SECTION 13. This Act shall be liberally construed in order
10 to accomplish the purposes set forth herein.

11 PART III

12 SECTION 14. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 15. This Act shall take effect on July 1, 2008;
15 provided that:

- 16 (1) The amendments to section 206J-5.5, Hawaii Revised
17 Statutes, in section 5 of this Act shall be repealed
18 on June 30, 2016, and section 206J-5.5, Hawaii Revised
19 Statutes, shall be reenacted in the form in which it
20 read on the day before the effective date of this Act;
21 and



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



Report Title:

Harbors; Modernization Plan; Capital Improvement Projects;
Revenue Bond; Hana Ramp and Wharf Transfer

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. (SB3227 HD1)

