
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 harbors and airports
5 divisions and the department of land and natural resources'
6 boating and ocean recreation program, as well as the department
7 of health with respect to environmental concerns, and the office
8 of Hawaiian affairs when ceded lands issues arise.

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

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



1 more effectively by a single entity having overall consolidated
2 jurisdiction.

3 In response to Senate Concurrent Resolution No. 214, H.D. 1
4 (1996), the governor convened the Hawaii maritime industry
5 policy advisory task force within the office of the governor to
6 examine several issues including "establishing a port authority
7 to implement and administer maritime policy under the port
8 authority." Subsequently, the task force submitted to the
9 legislature its report that determined that the advantages of
10 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 utilization and related
21 lease 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 coordination of all state
11 security interests for airports and harbors at entry-
12 points into the state is in the best interest of the
13 state;
- 14 (2) Improve the management of and increase funding for
15 state harbors. A port authority will improve not only
16 the management of the State's harbors, but will allow
17 the State to combine the resources of both the
18 airports and harbors divisions of the department of
19 transportation, thereby allowing the State to issue
20 larger bonds to raise more money for the improvement
21 of harbor 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 harbors, particularly relating to alien invasive
10 species. A port authority will be able to oversee
11 everything that enters the state by air or sea,
12 thereby allowing that entity to serve as the agency
13 responsible for comprehensive alien invasive species
14 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 Hawaii port authority, an independent public entity to set
8 statewide policy on all matters relating to harbors and airports
9 in Hawaii, and to transfer the functions, duties, and powers
10 exercised by the department of transportation over commercial
11 harbors and airports to the Hawaii port authority.

12 It is the intent of the legislature that the functions,
13 duties, and staff of the departments and agencies currently
14 charged with the responsibilities to be administered by the port
15 authority will be eventually transferred to this authority.
16 Because of the complexities involved with such a transfer,
17 however, this Act establishes the authority and its board with a
18 prospective effective date. In the meantime, a temporary port
19 authority task force within the office of the governor, also
20 established by this Act, is mandated to study the implications
21 of and fine tune the implementation of this Act and draft
22 recommended legislation.



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

16 "Commercial harbor" means a harbor or offshore mooring
17 facility that is intended primarily for the movement of
18 commercial cargo, and passenger and fishing vessels entering,
19 leaving, or traveling within the state, and facilities and
20 supporting services for the loading, off-loading, and handling
21 of cargo, passengers, and vessels.

22 "Port authority" means the Hawaii port authority.



1 § -2 Port authority; establishment; members and
2 administrator. (a) There is established the Hawaii port
3 authority, which shall be a body corporate and a special
4 political subdivision of the State for the purposes of this
5 chapter. The port authority is placed within the department of
6 budget and finance for administrative purposes only.

7 (b) The port authority shall consist of seven voting
8 members. The administrator shall be an ex-officio voting member
9 of the port authority. Two members shall be appointed by the
10 governor pursuant to section 26-34, except as specifically
11 provided to the contrary in this section. Two members shall be
12 appointed by the governor from a list of names
13 provided by the president of the senate; and two members shall
14 be appointed by the governor from a list of names
15 provided by the speaker of the house of representatives;
16 provided that:

17 (1) Those members appointed by the governor from lists
18 provided by the president of the senate and the
19 speaker of the house of representatives shall be
20 selected from lists of prospective appointees
21 recommended by the county councils;



1 (2) The governor shall stagger the terms of those members
2 appointed from lists provided by the president of the
3 senate and the speaker of the house of representatives
4 so there will always be one member from each county in
5 office at all times; and

6 (3) Those members appointed by the governor from lists
7 provided by the senate and the house of
8 representatives shall be exempt from senate
9 confirmation.

10 All members, except for the administrator, shall continue in
11 office until their respective successors have been appointed
12 and, if required, confirmed by the senate. The port authority
13 shall establish bylaws providing for the automatic succession of
14 a deputy administrator to the vacant post of administrator on an
15 interim basis and until a permanent administrator is appointed.
16 Except as provided in this chapter, no member appointed under
17 this section shall be an officer or employee of the State or the
18 counties.

19 (c) The port authority shall be headed by a single
20 executive to be known as the administrator of the port
21 authority. The administrator:



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

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

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

8 The administrator shall have such powers as are described in
9 this chapter and as may be delegated by the port authority. The
10 administrator, with the majority consent of the members voting
11 thereon, shall appoint a division chief for the port authority's
12 airport responsibilities and a division chief for the port
13 authority's harbor responsibilities. Each division chief shall
14 exercise and discharge the division chief's respective
15 responsibilities, whether or not in the administrator's
16 presence, and shall not exercise the responsibilities of the
17 other division chief. Each division chief shall report to, and
18 be under the supervision of, the administrator. The
19 administrator, with the majority consent of the members voting
20 thereon, may appoint such deputy administrators as the
21 administrator deems appropriate. Each deputy administrator
22 shall exercise those powers that may be delegated by the



1 administrator, whether or not in the administrator's presence.

2 The administrator may hire staff and employees to fill positions
3 that may be provided for in the port authority's annual budget.

4 The functions and duties of all positions, and the discharge of
5 any staff or employee hired by the administrator, shall be
6 provided for in the bylaws of the port authority.

7 **§ -3 Powers; generally.** (a) Except as otherwise
8 provided in this chapter, the port authority:

9 (1) Shall exercise power and control over airports, air
10 navigation facilities, buildings, and other facilities
11 belonging to, or controlled by, the port authority to
12 provide for:

13 (A) The landing, taking-off, and servicing of
14 aircraft, and the loading and unloading of
15 passengers and cargo;

16 (B) The comfort, accommodation, and convenience of
17 air travelers; and

18 (C) Any matter related to the foregoing;

19 (2) Shall exercise power and control over all commercial
20 harbors and roadsteads, and commercial harbor and
21 waterfront improvements belonging to, or controlled
22 by, the port authority, all vessels and shipping



1 within the commercial harbors and roadsteads, and any
2 matter related to the foregoing;

3 (3) Shall exercise such power and control over ferries as
4 it may deem proper in carrying out its duties
5 concerning water transportation in the state;

6 (4) Shall:

7 (A) Exercise general supervision over aeronautics
8 within the state and, in connection therewith,
9 encourage, foster, and assist in the development
10 of aeronautics in the state, and encourage the
11 establishment of airports and air navigation
12 facilities;

13 (B) Cooperate with and assist the federal government
14 and other persons in the development of
15 aeronautics; and

16 (C) Seek to coordinate the aeronautical activities of
17 the State with those activities of the federal
18 government;

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

21 (6) May sue and be sued;



- 1 (7) Shall have a seal and may alter the seal at its
2 pleasure;
- 3 (8) May make and execute contracts and all other
4 instruments necessary or convenient for the exercise
5 of its powers and functions under this chapter;
- 6 (9) Shall establish bylaws for its organization and
7 internal management;
- 8 (10) Shall establish bylaws for the adoption of rules and
9 shall adopt rules, through the administrator, to
10 effectuate this chapter;
- 11 (11) Shall adopt an annual budget for its operations and
12 maintenance program and its capital facilities
13 program;
- 14 (12) Shall appoint officers, agents, and employees through
15 the administrator, prescribe their duties and
16 qualifications, and fix their salaries;
- 17 (13) May own, sell, lease, hold, clear, improve, and
18 rehabilitate real, personal, or mixed property, and
19 assign, exchange, transfer, convey, lease, sublease,
20 or encumber any airport or commercial harbor, or any
21 project, improvement, or facility related thereto;



- 1 (14) Shall develop, construct, reconstruct, rehabilitate,
2 improve, alter, or repair, or provide for the
3 development, construction, reconstruction,
4 rehabilitation, improvement, alteration, or repair of,
5 any airport or commercial harbor, or any project,
6 improvement, or facility related thereto, and
7 designate a qualified person as its agent for that
8 purpose; and own, hold, assign, transfer, convey,
9 exchange, lease, sublease, or encumber any airport or
10 commercial harbor or any project, improvement, or
11 facility related thereto;
- 12 (15) Shall arrange or initiate appropriate action for the
13 planning, replanning, opening, grading, relocating, or
14 closing of streets, roads, roadways, alleys,
15 easements, piers, or other places; the furnishing of
16 facilities; the acquisition of property or property
17 rights; and the furnishing of property, development
18 rights, or services in connection with any airport or
19 commercial harbor, or any project, improvement, or
20 facility related thereto;



- 1 (16) May grant options or renew any lease entered into by
2 it in connection with any project, on terms and
3 conditions as it deems advisable;
- 4 (17) May provide advisory, consultative, training, and
5 educational services; technical assistance; and
6 advice, to any person, either public or private, to
7 carry out the purposes of this chapter, and engage the
8 services of consultants on a contractual basis for
9 rendering professional and technical assistance and
10 advice;
- 11 (18) Shall procure insurance against any loss in connection
12 with its property and other assets and operations, in
13 such amounts and from such insurers as it deems
14 desirable, or provide for self-insurance;
- 15 (19) May accept and receive gifts or grants in any form
16 from any person, public entity, or source; provided
17 that the grants and gifts shall be used for port
18 authority purposes;
- 19 (20) May pledge or assign all or any part of the moneys,
20 fees, rents, charges, or other revenues and proceeds
21 derived by the port authority from the proceeds of
22 insurance or condemnation awards for the loss of



1 revenues or incurring of costs and expenses because of
2 any action taken by the port authority;

3 (21) Shall impose, prescribe, and collect rates, rentals,
4 fees, or charges for the lease, use, and services of
5 its airport and commercial harbor facilities at least
6 sufficient to pay the costs of operation, maintenance,
7 and repair, if any, and the required payments of the
8 principal of, and interest on, all bonds issued or
9 assumed by the port authority and reserves therefor;

10 (22) May engage in economic development programs and
11 contract with the department of business, economic
12 development, and tourism or nonprofit corporations in
13 the furtherance of economic development;

14 (23) May take all actions necessary under emergencies such
15 as hurricanes, tsunamis, and other natural disasters;

16 (24) Shall plan, construct, operate, and maintain all
17 commercial harbor and airport facilities in the state,
18 including, but not limited to, the acquisition and use
19 of lands necessary to stockpile dredged spoils without
20 the approval of county agencies, notwithstanding any
21 other law to the contrary;



- 1 (25) May issue revenue bonds and special facility revenue
2 bonds in its name pursuant to chapter 39 without
3 limitations, but not in excess of such principal
4 amounts as are necessary for its purposes or specified
5 in covenants with bondholders;
- 6 (26) May invest and secure its moneys in accordance with
7 chapters 36 and 38;
- 8 (27) May take public and private property for use in
9 furthering any of the purposes of the port authority
10 or as otherwise provided by law; provided that all
11 proceedings for condemnation shall be conducted in
12 accordance with chapter 101;
- 13 (28) May provide compensation, allowance, or other
14 assistance to any person for relocation or
15 displacement caused by the acquisition of land for
16 airport or commercial harbor purposes;
- 17 (29) May hire or contract law enforcement personnel,
18 notwithstanding any other law to the contrary; and
- 19 (30) May do any and all things necessary to carry out its
20 purposes and exercise the powers given to it in this
21 chapter.



1 (b) Jurisdiction over aeronautics, airports, harbors, and
2 maritime functions, including airport functions under the
3 department of transportation's airports division, harbor and
4 maritime functions under the department of transportation's
5 harbors division, and the department of land and natural
6 resources' boating and ocean recreation program, shall be
7 transferred to the port authority on July 1, 2011."

8 SECTION 3. **Hawaii Port authority task force.** (a) There
9 is created a temporary Hawaii port authority task force within
10 the governor's office for administrative purposes, which shall
11 be chaired by the governor or the governor's designee, and the
12 following other members to be appointed by the governor:

- 13 (1) The director of transportation or the director's
14 designee;
- 15 (2) The chairperson of the board of land and natural
16 resources, or the chairperson's designee;
- 17 (3) The director of health or the director's designee;
- 18 (4) The adjutant general or the adjutant general's
19 designee;
- 20 (5) The chairperson of the board of trustees of the office
21 of Hawaiian affairs or the chairperson's designee;



- 1 (6) The director of business, economic development, and
- 2 tourism or the director's designee;
- 3 (7) Two members from a list of nominees submitted by the
- 4 president of the senate;
- 5 (8) Two members from a list of nominees submitted by the
- 6 speaker of the house of representatives;
- 7 (9) Four members, each representing one of the counties of
- 8 Hawaii, Maui, and Kauai, and the city and county of
- 9 Honolulu;
- 10 (10) Representatives of the following federal departments
- 11 or agencies, who shall be requested to assist the task
- 12 force:
 - 13 (A) The United States Department of Defense;
 - 14 (B) The United States Department of Homeland
 - 15 Security;
 - 16 (C) The United States Environmental Protection
 - 17 Agency;
 - 18 (D) The United States Coast Guard; and
 - 19 (E) The Federal Aviation Administration;
- 20 (11) Representatives of labor organizations in Hawaii,
- 21 including the Hawaii Government Employees Association,



1 the United Public Workers, and the International
2 Longshoremen's and Warehousemen's Union;
3 (12) Representatives from Hawaii's environmental community;
4 and

5 (13) Other interested public or private stakeholders who
6 the governor believes will be of assistance to the
7 functions of the task force, including members having
8 extensive knowledge, expertise, or experience in such
9 areas as economics, finance, development, maritime
10 issues, land transportation issues, airport planning
11 issues, planning, labor, and related areas.

12 (b) The members of the task force shall serve without
13 compensation, but shall be reimbursed for expenses, including
14 travel expenses, necessary for the performance of their duties.

15 (c) The task force shall be convened by the governor or
16 the governor's designee and shall accomplish the following tasks
17 prior to December 31, 2010:

18 (1) Study the respective missions and roles of the
19 affected departments and agencies to determine which
20 existing departmental missions and roles can be
21 eliminated, and which are legitimate, necessary, and



- 1 must be preserved, either intact or modified, in the
2 port authority;
- 3 (2) Determine and define which new missions and roles, if
4 any, need to be created for the port authority;
- 5 (3) Determine which departmental agencies and programs
6 must be preserved intact or modified to carry out the
7 new missions and roles as determined in paragraph (2)
8 by designing a organizational structure for the port
9 authority;
- 10 (4) Determine what policies need to be newly established,
11 modified, or eliminated to guide the port authority;
- 12 (5) Develop duties, responsibilities, and powers of the
13 port authority;
- 14 (6) Ensure that no federal mandates, requirements, laws,
15 or rules are violated and that no federal funding is
16 jeopardized by the consolidation;
- 17 (7) Provide for the establishment of a Hawaii port
18 authority fund having separate accounts for airport
19 and harbor functions;
- 20 (8) Provide for the imposition of fees to be assessed for
21 arriving or departing passengers on vessels and



1 aircrafts, to be used to fund infrastructure

2 improvements;

3 (9) Address civil service issues, and ensure that no
4 current personnel in affected departments or agencies
5 are terminated by appropriate placements or transfers
6 or other means;

7 (10) Address and resolve all other relevant public policy
8 issues and objectives affecting the establishment of
9 the port authority, including those relating to
10 enhancing security, protecting the environment,
11 improving government efficiency, ensuring effective
12 enforcement, standardizing criteria regarding the
13 sizes of vessels, and resolving all other appropriate
14 federal, state, and county issues; and

15 (11) Draft necessary proposed legislation to implement the
16 establishment of the Hawaii port authority.

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

19 (1) Providing user-friendly services;

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

21 (3) Use of economies of scale;



- 1 (4) Eliminating duplicative or outmoded functions and
- 2 activities;
- 3 (5) Enhancing productivity;
- 4 (6) Eliminating unnecessary regulation;
- 5 (7) Redesigning processes to increase efficiency, cut
- 6 costs, and reduce public inconvenience; and
- 7 (8) Realizing significant long-term savings.

8 (e) The members of the task force shall be appointed by
9 the governor within thirty days of the effective date of this
10 Act. The governor shall convene the first meeting of the task
11 force no later than thirty days after the last member is
12 appointed.

13 (f) The task force shall submit to the legislature and the
14 governor:

- 15 (1) An interim report on its progress no later than July
- 16 31, 2010; and
- 17 (2) A final report, including necessary proposed
- 18 legislation to transfer the functions, powers, duties,
- 19 lands, personal property, and personnel necessary to
- 20 accomplish the purposes set forth in this Act, for
- 21 passage and enactment during the regular session of



1 2011, at least twenty days prior to the convening of
2 the regular session of 2011.

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

12 SECTION 5. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun, before its effective date.

15 SECTION 6. This Act shall be liberally construed to
16 accomplish the purposes set forth herein. If any provision of
17 this Act, or the application thereof to any person or
18 circumstance, is held invalid, the invalidity shall not affect
19 the other provisions or applications of this Act that can be
20 given effect without the invalid provision or application, and
21 to this end the provisions of this Act are severable.



Report Title:

Port authority; Establishment.

Description:

Establishes the Hawaii Port Authority. Empowers the Authority to administer a statewide system of harbors and airports.

Establishes the temporary Hawaii Port Authority Task Force to review the consolidation of airport and harbor functions and draft necessary implementing legislation.

