



EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

July 8, 2014

**GOV. MSG. NO. 1309**

The Honorable Donna Mercado Kim,  
President  
and Members of the Senate  
Twenty-Seventh State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

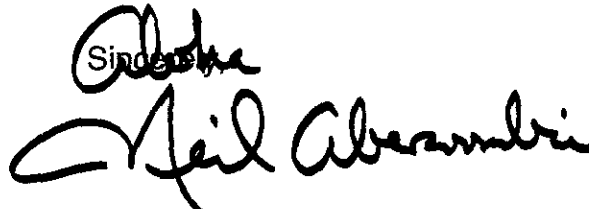
The Honorable Joseph M. Souki,  
Speaker and Members of  
the House of Representatives  
Twenty-Seventh State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

I am transmitting herewith SB2589 SD2 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB2589 SD2 HD2 CD1

RELATING TO LAW ENFORCEMENT

  
Sincerely,  
Neil Abercrombie

NEIL ABERCROMBIE  
Governor, State of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 8, 2014

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2589

Honorable Members  
Twenty-Seventh Legislature  
State of Hawaii

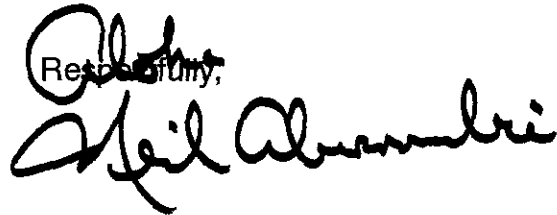
Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2589, entitled "A Bill for an Act Relating to Law Enforcement."

The purpose of this bill is to transfer the harbors law enforcement functions of the Harbors Division of the Department of Transportation (DOT) to the Department of Public Safety (PSD). This bill also establishes a harbors section within PSD and requires that all harbor police officers meet the qualifications for deputy sheriffs. Further, the issuance of citations or notices of infractions of the state harbors civil violations system, pursuant to this bill, are to be under the jurisdiction of PSD, but all other functions and responsibilities, such as the administration of any contested case proceeding, will remain with DOT. This appears inconsistent.

While I agree with the underlying objectives of the bill regarding enforcement activity, I believe both departments are working collaboratively to improve efficiency and effectiveness. Prior to the introduction of this bill, DOT and PSD had already begun preliminary discussions on this issue. Accordingly, I believe the departments should be allowed more time and opportunity to administratively implement the objectives of this bill with duties and responsibilities of DOT and PSD being resolved through a memorandum of agreement.

STATEMENT OF OBJECTIONS  
SENATE BILL NO. 2589  
Page 2

For the foregoing reasons, I am returning Senate Bill No. 2589 without my approval.

The image shows a handwritten signature in black ink. The signature is written in a cursive style and appears to read "Neil Abercrombie". There is a faint, circular stamp or watermark behind the signature that contains the word "Responsible".

NEIL ABERCROMBIE  
Governor of Hawaii

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# A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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

1           SECTION 1. Section 26-14.6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§26-14.6 Department of public safety.** (a) The  
4 department of public safety shall be headed by a single  
5 executive to be known as the director of public safety.

6           (b) The department of public safety shall be responsible  
7 for the formulation and implementation of state policies and  
8 objectives for correctional, security, law enforcement, and  
9 public safety programs and functions, for the administration and  
10 maintenance of all public or private correctional facilities and  
11 services, for the service of process, and for the security of  
12 state buildings.

13           (c) Effective July 1, 1990, the Hawaii paroling authority  
14 and the crime victim compensation commission are placed within  
15 the department of public safety for administrative purposes  
16 only.

17           (d) Effective July 1, 1990, the functions and authority  
18 heretofore exercised by:



1 (1) The department of corrections relating to adult  
2 corrections and the intake service centers;  
3 (2) The judiciary relating to the sheriff's office and  
4 judiciary security personnel; and  
5 (3) The department of the attorney general relating to  
6 state law enforcement officers and narcotics  
7 enforcement investigators with the narcotics  
8 enforcement division,  
9 shall be transferred to the department of public safety.

10 (e) Effective July 1, 1990, the functions and authority  
11 heretofore exercised by the department of health pursuant to  
12 chapters 329 and 329C, with the exception of sections 329-2,  
13 329-3, and 329-4(3) to (8), shall be transferred to the  
14 department of public safety.

15 (f) Effective July 1, 1990, the functions, authority, and  
16 obligations, together with the limitations imposed thereon and  
17 the privileges and immunities conferred thereby, exercised by a  
18 "sheriff", "sheriffs", a "sheriff's deputy", "sheriff's  
19 deputies", a "deputy sheriff", "deputy sheriffs", or a "deputy",  
20 under sections 21-8, 47-18, 105-4, 134-51, 183D-11, 187A-14,  
21 231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9,  
22 353-11, 356D-54, 356D-94, 383-71, 438-5, 445-37, 482E-4,



1 485A-202, 501-42, 501-171, 501-218, 521-78, 578-4, 584-6,  
2 587-33, 603-29, 604-6.2, 606-14, 607-2, 607-4, 607-8, 633-8,  
3 634-11, 634-12, 634-21, 634-22, 651-33, 651-37, 651-51, 654-2,  
4 655-2, 657-13, 660-16, 666-11, 666-21, 803-23, 803-34, 803-35,  
5 804-14, 804-18, 804-41, 805-1, 806-71, and 832-23 shall be  
6 exercised to the same extent by the department of public safety.

7 (g) Effective January 1, 1993, the functions and authority  
8 heretofore exercised by the attorney general and the department  
9 of the attorney general relating to the executive security  
10 officers shall be transferred to the department of public  
11 safety.

12 (h) Effective July 1, 1999, the functions and authority  
13 heretofore exercised by the director of public safety and the  
14 department of public safety relating to after hours security  
15 contracts at department of education facilities, except for the  
16 security functions being performed by employees of the public  
17 library system as well as the contractual security services for  
18 the libraries, shall be transferred to the department of  
19 education.

20 (i) Effective January 1, 1993, the functions and authority  
21 heretofore exercised by the director of health and the  
22 department of health relating to uniformed security employees



1 and security contracts at various state hospitals throughout the  
2 State shall be transferred to the department of public safety.  
3 Effective July 1, 2005, the functions, authority, and employee  
4 positions of the department of public safety relating to  
5 uniformed security employees and security contracts at health  
6 facilities that are under the operation, management, and control  
7 of the Hawaii health systems corporation shall be transferred to  
8 the Hawaii health systems corporation.

9 (j) Effective January 1, 1993, the functions and authority  
10 heretofore exercised by the director of human services and the  
11 department of human services relating to contractual security  
12 guard services shall be transferred to the department of public  
13 safety.

14 (k) Effective July 1, 1994, the functions and authority  
15 heretofore exercised by the adjutant general relating to  
16 security for national guard and state civil defense facilities  
17 in the Diamond Head complex, for after work hours, shall be  
18 transferred to the department of public safety.

19 (l) Effective July 1, 2002, the functions and authority  
20 heretofore exercised by the director of public safety and the  
21 department of public safety relating to after hours security  
22 contracts at department of education facilities, including all



1 security functions being performed by employees of the public  
2 library system, as well as the contractual security services for  
3 the libraries, shall be transferred to the department of  
4 education and the public library system as appropriate.

5 (m) Effective July 1, 2016, the functions and authority  
6 exercised by the director of transportation relating to harbors  
7 law enforcement shall be transferred to the department of public  
8 safety."

9 SECTION 2. Section 26-19, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§26-19 Department of transportation.** The department of  
12 transportation shall be headed by a single executive to be known  
13 as the director of transportation. The department shall  
14 establish, maintain, and operate transportation facilities of  
15 the State, including highways, airports, harbors, and such other  
16 transportation facilities and activities as may be authorized by  
17 law.

18 The department shall plan, develop, promote, and coordinate  
19 various transportation systems management programs that shall  
20 include, but not be limited to, alternate work and school hours  
21 programs, bicycling programs, and ridesharing programs.





1           The department shall develop and promote ridesharing  
2 programs which shall include but not be limited to, carpool and  
3 vanpool programs, and may assist organizations interested in  
4 promoting similar programs, arrange for contracts with private  
5 organizations to manage and operate these programs, and assist  
6 in the formulation of ridesharing arrangements. Ridesharing  
7 programs include informal arrangements in which two or more  
8 persons ride together in a motor vehicle.

9           The functions and authority heretofore exercised by the  
10 department of public works with respect to highways are  
11 transferred to the department of transportation established by  
12 this chapter.

13           Effective July 1, 2016, the functions and authority  
14 exercised by the director of transportation relating to harbors  
15 law enforcement shall be transferred to the department of public  
16 safety.

17           On July 1, 1961, the Hawaii aeronautics commission, the  
18 board of harbor commissioners and the highway commission shall  
19 be abolished and their remaining functions, duties, and powers  
20 shall be transferred to the department of transportation."

21           SECTION 3. Section 266-29, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "#{266-29} State harbors civil violations system;  
2 **authorization.** (a) There is established, within the department  
3 of transportation, a state harbors civil violations system,  
4 whose purpose shall be to process violations of departmental  
5 regulations for which administrative penalties have been  
6 authorized by law or rules adopted thereunder.

7           (b) The department of transportation shall adopt, amend,  
8 and repeal rules, subject to chapter 91, for the purposes of  
9 this section.

10          (c) Rules adopted pursuant to subsection (b) may include,  
11 but are not limited to, the following:

- 12           (1) Requirements for notice of state harbors infraction;  
13           (2) A form of the answer that shall be made pursuant to a  
14 notice of state harbors infraction, which answer may  
15 be an admission of the infraction, a denial of the  
16 infraction, or an admission of the infraction with  
17 mitigating circumstances;  
18           (3) The action to be taken after an answer is received or  
19 when a person fails to answer the notice of state  
20 harbors infraction;  
21           (4) Procedures for administrative hearings under this  
22 section;



1 (5) The imposition and enforcement of monetary assessments  
2 made pursuant to this section; and

3 (6) Means of assuring that the alleged violator who  
4 answers the notice of state harbors infraction by an  
5 admission of the infraction or an admission of the  
6 infraction with mitigating circumstances has knowingly  
7 and voluntarily elected to use the state harbors civil  
8 violations system and waive the appeal provided for in  
9 section 91-14.

10 (d) Notwithstanding any other provision of law to the  
11 contrary, all state harbors infractions that the department of  
12 transportation identifies as subject to administrative penalties  
13 may be adjudicated pursuant to this section.

14 (e) Effective July 1, 2016, the issuance of citations or  
15 notices of infractions of the state harbors civil violations  
16 system shall be under the jurisdiction of the department of  
17 public safety. All other functions and responsibilities shall  
18 remain with the department of transportation."

19 SECTION 4. Section 353C-2, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 **"§353C-2 Director of public safety; powers and duties.**

22 [†] (a) [†] The director of public safety shall administer the



1 public safety programs of the department of public safety and  
2 shall be responsible for the formulation and implementation of  
3 state goals and objectives for correctional and law enforcement  
4 programs, including ensuring that correctional facilities and  
5 correctional services meet the present and future needs of  
6 persons committed to the correctional facilities. In the  
7 administration of these programs, the director may:

8 (1) Preserve the public peace, prevent crime, detect and  
9 arrest offenders against the law, protect the rights  
10 of persons and property, and enforce and prevent  
11 violation of all laws and administrative rules of the  
12 State as the director deems to be necessary or  
13 desirable or upon request, to assist other state  
14 officers or agencies that have primary administrative  
15 responsibility over specific subject matters or  
16 programs;

17 (2) Train, equip, maintain, and supervise the force of  
18 public safety officers, including law enforcement and  
19 correctional personnel, and other employees of the  
20 department;

21 (3) Serve process both in civil and criminal proceedings;

22 (4) Perform other duties as may be required by law;



- 1 (5) Adopt, pursuant to chapter 91, rules that are  
2 necessary or desirable for the administration of  
3 public safety programs; and  
4 (6) Enter into contracts in behalf of the department and  
5 take all actions deemed necessary and appropriate for  
6 the proper and efficient administration of the  
7 department.

8 (b) Effective July 1, 2016:

- 9 (1) There shall be established a harbors section within  
10 the department of public safety;  
11 (2) The functions and authority heretofore exercised by  
12 the director of transportation relating to harbors law  
13 enforcement shall be transferred to the department of  
14 public safety; and  
15 (3) Harbor police officers shall meet the qualifications  
16 established in accordance with section 353C-9, for  
17 sheriffs of the department of public safety.

18 ~~[(b)]~~ (c) The department of public safety shall report  
19 to the legislature not later than twenty days prior to the  
20 commencement of the 2008 regular session, and every session  
21 thereafter, with its achievements, continuing improvements, and



1 ongoing problems in providing the appropriate mental health care  
2 to committed persons under its jurisdiction."

3 SECTION 5. Section 353C-4, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) The director may appoint employees to be public  
6 safety officers who shall have all of the powers of police  
7 officers; provided that the director may establish and assign  
8 the employees to positions or categories of positions that may  
9 have differing titles, specific duties, and limitations upon the  
10 exercise of police powers[-]; provided further that all officers  
11 assigned to carry out law enforcement functions at state harbors  
12 shall meet the qualifications established for sheriffs of the  
13 department."

14 SECTION 6. All rights, powers, functions, and duties of  
15 the department of transportation, harbors division related to  
16 law enforcement are transferred to the department of public  
17 safety.

18 All employees who occupy civil service positions and whose  
19 functions are transferred to the department of public safety by  
20 this Act shall retain their civil service status, whether  
21 permanent or temporary. Employees shall be transferred without  
22 loss of salary, seniority (except as prescribed by applicable



1 collective bargaining agreements), retention points, prior  
2 service credit, any vacation and sick leave credits previously  
3 earned, and other rights, benefits, and privileges, in  
4 accordance with state personnel laws and this Act; provided that  
5 the employees possess the minimum qualifications and public  
6 employment requirements for the class or position to which  
7 transferred or appointed, as applicable; provided further that  
8 subsequent changes in status may be made pursuant to applicable  
9 civil service and compensation laws.

10 Any employee who, prior to this Act, is exempt from civil  
11 service and is transferred as a consequence of this Act may  
12 retain the employee's exempt status, but shall not be appointed  
13 to a civil service position as a consequence of this Act. An  
14 exempt employee who is transferred by this Act shall not suffer  
15 any loss of prior service credit, vacation or sick leave credits  
16 previously earned, or other employee benefits or privileges as a  
17 consequence of this Act; provided that the employee possesses  
18 legal and public employment requirements for the position to  
19 which transferred or appointed, as applicable; provided further  
20 that subsequent changes in status may be made pursuant to  
21 applicable employment and compensation laws. The director of  
22 public safety may prescribe the duties and qualifications of



1 these employees and fix their salaries without regard to chapter  
2 76, Hawaii Revised Statutes.

3 SECTION 7. All appropriations, records, equipment,  
4 machines, files, supplies, contracts, books, papers, documents,  
5 maps, and other personal property heretofore made, used,  
6 acquired, or held by the department of transportation relating  
7 to the functions transferred to the department of public safety  
8 shall be transferred with the functions to which they relate.

9 SECTION 8. The director of public safety, in cooperation  
10 with the director of transportation shall submit a report to the  
11 legislature, including findings, recommendations, and updates on  
12 the transference of functions and authority of harbors law  
13 enforcement from the department of transportation to the  
14 department of public safety, no later than twenty days prior to  
15 the convening of the regular session of 2016.

16 SECTION 9. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 10. This Act shall take effect on July 1, 2014.

APPROVED this                      day of                      , 2014