
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 there is a
2 compelling interest in protecting consumers from the effects of
3 the high prices of travel and transporting goods among the
4 islands. The legislature further finds that to promote
5 commerce, the State must create a multimodal transportation
6 network to encourage competition and lower the cost of
7 conducting business in the State.

8 The legislature finds that Hawaii's sea and air
9 transportation planning, management, and development functions
10 are currently spread out among a number of agencies, including
11 the department of transportation's harbors and airports
12 divisions and the department of land and natural resources'
13 boating and ocean recreation program, as well as the department
14 of health with respect to environmental concerns, and the office
15 of Hawaiian affairs when ceded lands issues arise.

16 This multijurisdictional situation has resulted in
17 inefficiencies and conflicts that are difficult to resolve



1 between agencies. In addition, this situation sometimes leads
2 to conflicting plans of action among the different agencies
3 seeking to implement differing goals.

4 Recent problems experienced by the Molokai ferry and the
5 medevac night services on the neighbor islands could expand to
6 the loss of air travel options on Molokai and Lanai if the
7 current multijurisdictional system is allowed to persist.

8 The economic well-being of the State depends in part on the
9 efficient use of all of its air and sea transportation
10 resources, which will enhance and complement efforts to improve
11 Hawaii's economy. The legislature believes that coordinated
12 planning and development of small sea and air transportation
13 would be implemented more effectively by a single entity having
14 overall consolidated jurisdiction.

15 Nearly a decade ago, in response to Senate Concurrent
16 Resolution No. 214, H.D. 1 (1996), the governor convened the
17 Hawaii maritime industry policy advisory task force within the
18 office of the governor to examine several issues including
19 "establishing a port authority to implement and administer
20 maritime policy under the port authority." Subsequently, the
21 task force submitted to the legislature its report that



1 determined that the advantages of establishing a port authority
2 outweighed the disadvantages of doing so. The advantages of
3 establishing a port authority include:

- 4 (1) Providing an institutional mechanism to promote
5 efficient allocation of waterfront resources;
- 6 (2) Focusing control and responsibility for small-scale
7 resources within a single entity, thereby eliminating
8 multi-agency oversight and jurisdiction;
- 9 (3) Providing an appropriate forum for all affected
10 interests;
- 11 (4) Increasing efficiency in land utilization and related
12 lease processes;
- 13 (5) Streamlining administrative processes;
- 14 (6) Making possible more responsive planning;
- 15 (7) Increasing financial flexibility; and
- 16 (8) Increasing responsiveness to customer needs and
17 economic demands.

18 The legislature believes that it is time to reexamine
19 placing the small boat harbors and small airports under a single
20 jurisdiction, rather than the current bifurcated system. This



1 will help to preserve small airports and will provide a vital
2 transportation network among all islands.

3 In addition, the legislature finds that the establishment
4 of a port authority will assist in the following important
5 statewide objectives:

- 6 (1) Increased security for the State. The legislature
7 finds that coordination of all state security
8 interests for small airports and small boat harbors at
9 entry-points into the State is in the best interest of
10 the State;
- 11 (2) Improved the management of and increased funding for
12 state harbors. A port authority will improve not only
13 the management of the State's small boat harbors, but
14 will allow the State to combine the resources of both
15 the small airports and small boat harbors functions of
16 the department of transportation and the department of
17 land and natural resources, thereby allowing the State
18 to issue larger bonds to raise more money for the
19 improvement of harbor infrastructure;
- 20 (3) Improved administrative efficiency. Consolidating
21 small airport and small boat harbor functions into a



1 single entity will help to streamline administrative
2 processes, thereby making possible more responsive
3 planning, increasing financial flexibility, and
4 increasing responsiveness to customer needs and
5 economic demands; and

- 6 (4) Increased economic opportunities for the State
7 relating to custom tours, increased tourism, and niche
8 transportation options. A port authority will enable
9 the State to develop improved infrastructure and issue
10 bonds to assist transportation industries that form a
11 logical nexus to the sea and air transportation
12 sectors.

13 The legislature finds that the rational allocation and
14 administration of scarce and increasingly valuable waterfront
15 and airport resources through the establishment of a port
16 authority is vital for the well-being of the people and the
17 economy of the State. A port authority will create new access
18 to cargo options, lower the cost of travel, increase medical
19 flight services, provide increased flexibility for civil
20 defense, and expand tourism options.



1 It is the intent of the legislature that the employees of
2 the department of land and natural resources charged with the
3 responsibilities of managing small boat harbors and the
4 employees of department of transportation charged with the
5 responsibilities of managing small airports be eventually
6 transferred to the Hawaii port authority without loss of
7 seniority or benefits and that future employees of the port
8 authority be state employees.

9 Accordingly, the purpose of this Act is to establish the
10 Hawaii port authority, an independent public entity to set
11 statewide policy on all matters relating to small boat harbors
12 and small airports and to provide for the orderly transfer of
13 the functions of the department of land and natural resources
14 with regard to small boat harbors and the department of
15 transportation with regard to small airports to the Hawaii port
16 authority.

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

20 **"CHAPTER**

21 **HAWAII PORT AUTHORITY**



1 § -1 Definitions. As used in this chapter:

2 "Administrator" means the administrator of the port
3 authority.

4 "Small boat harbor" means the harbors or portions of
5 harbors, including fast lands, for the primary purpose of
6 promoting recreational boating activities and the landing of
7 fish.

8 "Port authority" means the Hawaii port authority.

9 "Small airport" means any of the following airports or
10 portions of the following airports:

11 (1) The general aviation commuter portion of the:

12 (A) Hilo international airport;

13 (B) Honolulu international airport;

14 (C) Kahului airport;

15 (D) Kona international airport at Keahole; and

16 (E) Lihue airport;

17 (2) Dillingham airfield;

18 (3) Hana airport;

19 (4) Kalaeloa airport;

20 (5) Kalaupapa airport;

21 (6) Kapalua airport;



- 1 (7) Lanai airport;
- 2 (8) Molokai airport;
- 3 (9) Port Allen airport;
- 4 (10) Upolu airport; and
- 5 (11) Waimea-Kohala airport,

6 and any area of land or water in those portions of the airports
7 or airports that is used, or intended for use, for the landing
8 and departure of aircraft, and any appurtenant areas that are
9 used or intended for use for airport buildings or other airport
10 facilities or rights-of-way, including approaches, together with
11 all airport buildings and facilities located thereon.

12 § -2 **Hawaii port authority; established.** (a) There is
13 established within the department of budget and finance for
14 administrative purposes the Hawaii port authority to serve as an
15 independent public entity to establish statewide policy on all
16 matters relating to small boat harbors and small airports in
17 Hawaii.

18 (b) The port authority, shall be a body corporate and a
19 special political subdivision of the State.

20 § -3 **Hawaii port authority; members.** (a) The port
21 authority shall consist of seven voting members as follows:



1 (1) The administrator, who shall be an ex-officio voting
2 member of the port authority;

3 (2) Three members who shall have a background in small
4 boating or small boat harbors; provided that one of
5 these members shall be a resident of a county with a
6 population of less than five hundred thousand
7 residents; and

8 (3) Three members who shall represent a background in
9 light aircraft or small airports; provided that one of
10 these members shall be a resident of a county with a
11 population of less than five hundred thousand
12 residents.

13 (b) The members of the port authority shall be appointed
14 by the governor pursuant to section 26-34, except as
15 specifically provided this section. The president of the senate
16 and the speaker of the house of representatives shall jointly
17 submit to the governor the names of six persons with a
18 background in small boating or small boat harbors; provided that
19 three persons shall be selected by the president of the senate
20 and three persons shall be selected by the speaker of the house
21 of representatives. The president of the senate and the speaker



1 of the house of representatives shall jointly submit the names
2 of six persons with a background in light aircraft or small
3 airports; provided that three persons shall be selected by the
4 president of the senate and three persons shall be selected by
5 the speaker of the house of representatives. Initial
6 appointments shall be for staggered terms, as determined by the
7 governor. Appointment of the members of the port authority by
8 the governor shall be exempt from the advise and consent
9 authority of the senate.

10 (c) Except as provided in this chapter, no member of the
11 port authority appointed under this section shall be an officer
12 or employee of the State or any of the counties.

13 § -4 Administrator of the Hawaii port authority. (a)

14 The port authority shall be headed by a single executive to be
15 known as the administrator of the port authority.

16 (b) The administrator:

17 (1) Shall report directly to the governor;

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

21 (3) Shall be a voting member of the port authority;



- 1 (4) May be removed from office by a vote of not less than
2 four members of the port authority, excluding the
3 administrator;
- 4 (5) Shall have the powers described in this chapter and as
5 may be delegated by the port authority;
- 6 (6) Shall appoint, with the majority consent of the
7 members voting thereon, a division head for the port
8 authority's airport responsibilities and a division
9 head for the port authority's harbor responsibilities;
- 10 (7) May appoint, with the majority consent of the members
11 voting thereon, a deputy administrator for each county
12 as the administrator deems appropriate; and
- 13 (8) May hire staff and employees to fill positions that
14 may be provided for in the port authority's annual
15 budget.
- 16 (c) The port authority shall adopt bylaws providing for
17 the automatic succession of a deputy administrator to the vacant
18 post of administrator on an interim basis and until a permanent
19 administrator is appointed.
- 20 § -5 Staff. (a) Each division head shall exercise the
21 authority and discharge the duties delegated to that division



1 head by the port authority and the administrator. Each division
2 head shall report to, and be under the supervision of, the
3 administrator.

4 (b) Each deputy administrator shall exercise those powers
5 that may be delegated by the administrator, whether or not in
6 the administrator's presence.

7 (c) The functions, duties, and compensation of all
8 positions, and the discharge of any staff or employee hired by
9 the administrator, shall be provided for in the bylaws of the
10 port authority.

11 § -6 Hawaii port authority; powers and duties. (a)

12 Except as otherwise provided in this chapter, the port
13 authority:

14 (1) Shall exercise power and control over small airports
15 and related facilities and buildings to provide for:

16 (A) The landing, taking-off, and servicing of
17 aircraft, and the loading and unloading of
18 passengers and cargo;

19 (B) The comfort, accommodation, and convenience of
20 air travelers; and

21 (C) Any matter related to the foregoing;



- 1 (2) Shall exercise power and control over all small boat
2 harbors and roadsteads, small boat harbor and
3 waterfront improvements belonging to, or controlled
4 by, the port authority, all recreational fishing, and
5 any matter related to the foregoing;
- 6 (3) Shall exercise power and control over ferries as it
7 may deem proper in carrying out its duties concerning
8 water transportation in the State, including the
9 ferries using the Kaunakakai small boat harbor on the
10 island of Molokai and Kalaeloa Barbers Point harbor on
11 the island of Oahu;
- 12 (4) Shall:
- 13 (A) Exercise general supervision over aeronautics at
14 small airports within the State and, in
15 connection therewith, encourage, foster, and
16 assist in the development of aeronautics in the
17 State, and encourage the establishment of small
18 airports and air navigation facilities;
- 19 (B) Cooperate with and assist the federal government,
20 including the Federal Aviation Administration,



- 1 and other persons in the development of
2 aeronautics; and
3 (C) Seek to coordinate the aeronautical activities of
4 the State with those activities of the federal
5 government;
6 (5) May use the facilities and services of any department,
7 board, commission, or agency of the State or counties;
8 (6) May sue and be sued;
9 (7) Shall have a seal and may alter the seal at its
10 pleasure;
11 (8) May make and execute contracts and all other
12 instruments necessary or convenient for the exercise
13 of its powers and functions under this chapter;
14 (9) Shall establish bylaws for its organization and
15 internal management;
16 (10) Shall establish bylaws for the adoption of rules and
17 shall adopt rules, through the administrator, to
18 effectuate this chapter;
19 (11) Shall adopt an annual budget for its operations and
20 maintenance program and its capital facilities
21 program;



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



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



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



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



- 1 proceedings for condemnation shall be conducted in
2 accordance with chapter 101;
- 3 (28) May provide compensation, allowance, or other
4 assistance to any person for relocation or
5 displacement caused by the acquisition of land for
6 small airport or small boat harbor purposes;
- 7 (29) May hire or contract law enforcement personnel,
8 notwithstanding any other law to the contrary;
- 9 (30) May use funds appropriated to the port authority to
10 fund services on a seven days a week basis regardless
11 of any appropriation stating otherwise;
- 12 (31) Explore niche ideas for the expansion or improvement
13 of transportation in Hawaii, including the use of
14 seaplanes;
- 15 (32) May do any and all things necessary to carry out its
16 purposes and exercise the powers given to it in this
17 chapter; and
- 18 (33) Adopt rules pursuant to chapter 91.
- 19 (b) No county shall adopt any ordinance or rule that
20 interferes with or obstructs the operations of the port
21 authority.



1 § -7 Hawaii port authority; powers and duties. No later
2 than twenty days prior to the convening of each regular session,
3 the port authority shall submit to the legislature an annual
4 report of its activities and finances."

5 SECTION 3. Jurisdiction over aeronautics, small airports,
6 small boat harbors, and maritime functions, including related
7 small airport functions under the department of transportation's
8 airports division, maritime functions of the department of
9 transportation's harbors division, and the department of land
10 and natural resources' small boat harbors functions and boating
11 and ocean recreation program, shall be transferred to the port
12 authority on July 1, 2017.

13 SECTION 4. At least twenty days prior to the convening of
14 the regular session of 2017, the department of transportation
15 and the department of land and natural resources shall jointly
16 submit to the legislature a report recommending statutes that
17 must be amended to transfer the authority and corresponding
18 employees to the port authority under this Act.

19 SECTION 5. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so much



1 thereof as may be necessary for fiscal year 2016-2017 for
2 implementation of the Hawaii port authority.

3 The sum appropriated shall be expended by the department of
4 budget and finance for the purposes of this Act.

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

14 SECTION 7. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun, before its effective date.

17 SECTION 8. This Act shall be liberally construed to
18 accomplish the purposes set forth herein. If any provision of
19 this Act, or the application thereof to any person or
20 circumstance, is held invalid, the invalidity shall not affect
21 the other provisions or applications of this Act that can be



1 given effect without the invalid provision or application, and
2 to this end the provisions of this Act are severable.

3 SECTION 9. This Act shall take effect upon approval;
4 provided that section 2 shall take effect on July 1, 2017, and
5 section 5 shall take effect on July 1, 2016.


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INTRODUCED BY: 

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JAN 27 2016



H.B. NO. 2156

Report Title:

Port Authority; Establishment; Appropriation

Description:

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

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