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**George D. Szigeti**  
*President and Chief Executive Officer*

Statement of  
**George D. Szigeti**  
Chief Executive Officer  
Hawai'i Tourism Authority  
on  
**HB1443 HD2 Relating to an Airport Corporation**  
House Committee on Finance  
Thursday, February 23, 2017  
11:00 a.m.  
Conference Room 308

Chair Luke, Vice Chair Cullen and Members of the committee:

The Hawai'i Tourism Authority (HTA) offers the following **comments on** HB1443 HD2, which would create the Hawaii Airport Corporation within the Department of Transportation to develop, manage, and operate the State's airports and aeronautical facilities.

Improving our airport infrastructure is critical for Hawai'i's tourism industry. Without commenting on the precise structure of the authority, HTA supports the concept of a separate entity tasked with maintaining and improving the airports and focusing on issues affecting airlines and the tourism industry. Such an entity would address the needs of our airport visitors, businesses and airlines in a responsive and timely manner. HTA supports the investment in the state, our infrastructure and Hawai'i's visitor industry.

Mahalo for the opportunity to offer these comments.



**HB1443 HD2**  
**RELATING TO AN AIRPORT CORPORATION**  
House Committee on Finance

February 23, 2017

11:00 a.m.

Room 308

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB1443 HD2, which would establish the Hawai'i Airport Corporation (Corporation) to exercise consolidated jurisdiction over the State's airports and airport lands, and exempt the Corporation from critical laws protecting Native Hawaiian rights and interests in public and "ceded" lands.

OHA has significant concerns regarding language in this measure that would explicitly exempt the Corporation and Corporation-held lands from Hawai'i Revised Statutes (HRS) Chapter 171.

Under Article 11, section 1 of the Hawai'i State Constitution and HRS Chapter 171, the State holds in trust approximately 1.3 million acres of public lands, including the natural and cultural resources they contain, for the benefit of present and future generations. Much of these lands are "ceded" lands, most of which are also subject to the public land trust created by Article 12 of the Hawai'i State Constitution and the Admission Act section 5(f), which requires that a portion of revenues derived from public land trust lands be dedicated to OHA, for the purpose of bettering the conditions of Native Hawaiians. OHA notes that the trust status of these lands imposes on the State specific fiduciary obligations of due diligence and undivided loyalty, in making the trust corpus productive and maximizing its benefits for the trust's Native Hawaiian and public beneficiaries.

**By exempting the proposed Corporation from Chapter 171, this bill would circumvent critical laws that protect Native Hawaiian rights related to "ceded" lands, other public lands, and the public land trust.** For example, Chapter 171 contains requirements that legislative approval be obtained prior to the sale or gift of state lands (HRS §171-64.7), or to the exchange of public lands for private lands (HRS §171-50). OHA views these statutory protections as critical to maintaining the ceded lands corpus, as their enactment was a condition precedent to the settlement agreement in the OHA v. Housing and Community Development Corporation of Hawai'i lawsuit, brought in response to the State's actions to sell and otherwise alienate ceded lands. An exemption from these statutory requirements would therefore undermine the long-held understanding between OHA, Native Hawaiians, and the State, regarding the State's moral and legal obligation to maintain the ceded lands corpus. Chapter 171 also contains requirements for leases of public lands, including public auction requirements, limits on lease length and parcel use, and lessee qualifications, all of which are meant to benefit and protect the

interests of Native Hawaiians and the public. Exempting the Corporation from these requirements may invite potential violations of the public trust and public land trust, by foreclosing opportunities to maximize the financial and intangible benefits derived from the trust corpus, and fostering a sense of entitlement in lessees that can and has in the past led to the alienation of public lands. **Accordingly, the wholesale exemption of the Corporation and its lands from Chapter 171 may threaten a range of Native Hawaiian interests in our limited public land base.**

OHA has additional concerns over Section 2 of the measure, which describes the new Corporation as a “body politic and corporate,” a “public instrumentality,” and a “subdivision of the State.” The latter term resembles the term “political subdivisions within the State” in Article VIII of the state constitution describing local government, i.e., the counties. Since the counties are not necessarily subject to the same laws as state agencies, it is unclear whether key state laws would apply to the Corporation, including Act 178, Session Laws of Hawai‘i 2006, which imposes strict public land trust revenue accounting requirements on state departments and agencies that use or manage public lands.

Accordingly, OHA urges the Committee to **HOLD** HB1443 HD2, or otherwise ensure that all laws establishing and protecting the rights of OHA and its beneficiaries be made explicitly applicable to the Corporation in its receipt, administration, and disposition of lands that fall under its control. Mahalo for the opportunity to testify on this measure.



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**  
AFSCME Local 152, AFL-CIO

**RANDY PERREIRA**, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii  
House of Representatives  
Committee on Finance

Testimony by  
Hawaii Government Employees Association

February 23, 2017

H.B. 1443, H.D. 2 – RELATING TO  
AN AIRPORT CORPORATION

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO has very serious concerns about the purpose and intent of H.B. 1443, H.D. 2, which authorizes the establishment of a new state entity, “an independent airport corporation,” to take over from the Department of Transportation Airports Division the responsibility for Hawaii’s airport planning, management, marketing and capital development.

The bill advances the notion that such corporation addresses delayed decision-making and inefficiency resulting from multiple agencies involved in the planning, development and operation of Hawaii’s airport infrastructure. We assert that multiple agencies, each with their own area of responsibility, are rightly involved to collectively protect the public interest. The public benefits from the involvement of the Department of Health with respect to addressing environmental concerns, the Board of Land and Natural Resources with respect to protecting public lands and the Department of Human Resources Development with respect to enforcing the civil service law to render impartial service to the public.

The public interest at our airports would be better served by efforts to increase efficiency through improved collaboration among state agencies and involving the experience and expertise of their employees.

We respectfully request that H.B. 1443, H.D. 2 be deferred.

Respectfully submitted,

Randy Perreira  
Executive Director



**Testimony to the House Committee on Finance  
Thursday, February 23, 2017 at 11:00 A.M.  
Conference Room 325, State Capitol**

**RE: HOUSE BILL 1443 HD2 RELATING TO AN AIRPORT CORPORATION**

Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports** HB 1443 HD2, which would authorize the establishment of the Hawaii Airport Corporation within the department of transportation for administrative purposes on July 1, 2018. The bill sets out appointment of members to the board of directors and powers and duties of the Hawaii Airport Corporation, and transfers the aeronautics functions of DOT to the Hawaii airport authority.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We understand that the Airports Division recently completed a study that recommended restructuring toward a more independent airport authority, similar to port authorities on the mainland.

An Airport Corporation would allow for:

- Make improvements quickly and efficiently
- Create a more competitive tourism industry
- Deliver economic benefits across all sectors
- Make flying a better experience
- Provide year-round oversight and leadership with a five-member board and CEO
- Transfer all employees of the state to the corporation without loss of salary, seniority and benefits

One of the compelling arguments to create an Airport Corporation is that currently, Airports do not use any taxpayer funds. All funds used in the airport operations are derived from user fees and assessments within the Airport properties.

While we support the proposal for the Hawaii Airport Corporation we also would encourage imposing policies and procedures that would provide sufficient oversight on the collection and expenditure of the funds raised on Airport properties which are state owned lands.

We appreciate the opportunity to provide our input on this important legislation.

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# A BILL FOR AN ACT

RELATING TO AN AIRPORT CORPORATION.

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

1           SECTION 1. The legislature finds that the economic well-  
2 being of the State is substantially dependent on the efficient  
3 development, management, and operation of its airports and air  
4 transportation infrastructure. The legislature further finds  
5 that responsibility for Hawaii's airport planning, management,  
6 marketing, and capital development functions is currently  
7 distributed among a number of agencies, including the department  
8 of transportation's airports division, Hawaii tourism authority,  
9 department of budget and finance, department of human resources  
10 development, board of land and natural resources, department of  
11 health with respect to environmental concerns, and the Office of  
12 Hawaiian Affairs with respect to ceded land issues, among  
13 others. Furthermore, key decision-making is vested in the state  
14 legislature that is only in regular session for a part of each  
15 year which impedes responsiveness and delays key decisions  
16 relating to the capital improvement program. Dispersed  
17 responsibility and involvement by multiple agencies, sometimes



1 with conflicting goals and priorities, results in delayed  
2 decision-making, inefficiency, and reduced effectiveness.

3 The legislature believes that coordinated planning and  
4 development of air transportation would be achieved more  
5 effectively by a single entity having overall consolidated  
6 jurisdiction for the State's airport infrastructure.

7 The legislature further finds that the establishment of an  
8 independent airport corporation would assist in the achievement  
9 of the following important statewide objectives:

- 10 (1) Maximizing the contribution of the state airports  
11 system to Hawaii's economy;
- 12 (2) Ensuring dedicated, expert airport leadership,  
13 management continuity, and year-round decision-making,  
14 consistent with industry best practices;
- 15 (3) Improving administrative efficiency by streamlining  
16 administrative processes;
- 17 (4) Accelerating the planning and delivery of the airports  
18 system's capital improvement program;
- 19 (5) Increasing the financial flexibility and strength of  
20 the airports system;
- 21 (6) Increasing economic opportunities for the State, in  
22 collaboration with the Hawaii tourism authority;



- 1 (7) Increasing responsiveness to customer needs,
- 2 commercial opportunities, and economic demands;
- 3 (8) Providing full transparency and public accountability,
- 4 and an appropriate forum to engage all interested
- 5 parties; and
- 6 (9) Maximizing job creation within the State.

7 The legislature further finds that the management and  
 8 administration of scarce and increasingly valuable airport  
 9 resources is most effectively served by the establishment of an  
 10 independent airport corporation.

11 The purpose of this Act is to establish the Hawaii airport  
 12 corporation.

13 SECTION 2. The Hawaii Revised Statutes is amended by  
 14 adding a new chapter to be appropriately designated and to read  
 15 as follows:

16 **"CHAPTER**

17 **HAWAII AIRPORT CORPORATION**

18 § -1 Definitions. As used in this chapter:

19 "Aeronautics" shall have the same meaning as defined in  
 20 section 261-1.

21 "Air navigation facility" shall have the same meaning as  
 22 defined in section 261-1.





1 "Airport" means any area of land or water that is used, or  
2 intended for use, for the landing and taking-off of aircraft,  
3 and any appurtenant areas that are used, or intended for use,  
4 for airport buildings or other airport facilities or rights-of-  
5 way, including approaches, together with all airport buildings  
6 and facilities located thereon.

7 "Airport corporation" or "corporation" means the Hawaii  
8 airport corporation.

9 "Chief executive officer" means the chief executive officer  
10 of the Hawaii airport corporation.

11 **§ -2 Airport corporation; establishment; board; members;**  
12 **chief executive officer.** (a) There is established the Hawaii  
13 airport corporation, which shall be a body politic and  
14 corporate, constituting a public instrumentality for the  
15 performance of an essential public and governmental function as  
16 provided in this chapter. The corporation shall be established  
17 and shall operate as a subdivision of the State for the purpose  
18 of developing and implementing management structures, policies,  
19 and procedures based on airport industry best practices and  
20 expressly configured to support the efficient development,  
21 management, and operation of the State's airports and  
22 aeronautical facilities. The corporation shall be placed within



1 the department of transportation for administrative purposes  
2 only. The airport corporation shall only be repealed by a vote  
3 of not less than a majority of the members of each house of the  
4 legislature.

5 (b) The powers of the airport corporation shall be vested  
6 in and exercised by a board of directors, which shall consist of  
7 five voting members, who shall be appointed as follows:

8 (1) Three members appointed by the governor pursuant to  
9 section 26-34;

10 (2) One member appointed by the speaker of the house of  
11 representatives; and

12 (3) One member appointed by the president of the senate.

13 All members shall be appointed for terms of four years; provided  
14 that the initial terms of the members appointed by the governor  
15 shall be staggered. Members shall be removed from office by the  
16 appointing authority only for inefficiency, neglect of duty,  
17 turpitude, or misconduct in office after giving the member a  
18 copy of the charges against the member and allowing the member  
19 an opportunity to be heard, in person or by counsel, upon not  
20 less than ten days notice.

21 Members shall have relevant business and management  
22 experience, including experience in one or more of the following



1 disciplines: financial planning, budgeting, hospitality,  
2 tourism, commercial development, construction program  
3 management, marketing, law, or aviation.

4 All members shall continue in office until their respective  
5 successors have been appointed.

6 Except as provided in this chapter, no member appointed  
7 under this section shall be an officer or employee of the State  
8 or the counties.

9 (c) The airport corporation shall be headed by a single  
10 executive to be known as the chief executive officer of the  
11 Hawaii airport corporation, who shall:

- 12 (1) Not be a member of the board;  
13 (2) Serve at the pleasure of the board; and  
14 (3) Receive compensation that shall be fixed by the board.  
15 (d) The chief executive officer:  
16 (1) Shall be selected based on criteria approved by the  
17 board, including experience in airport management at  
18 an executive level at a large- or medium-hub airport  
19 within the United States, management of significant  
20 scale capital programs, and domestic and international  
21 air service development;



- 1           (2) Shall be appointed by the vote of not less than three
- 2                   members of the board;
- 3           (3) Shall be employed subject to a formal contract, the
- 4                   terms of which shall be approved by the board;
- 5           (4) May be removed from office only by a vote of not less
- 6                   than three members of the board; provided that the
- 7                   basis for removal is consistent with the terms of the
- 8                   applicable employment contract;
- 9           (5) May establish management organization structures;
- 10          (6) May appoint such deputy executive officers as the
- 11                   chief executive officer deems appropriate. Each
- 12                   deputy executive officer shall exercise those powers
- 13                   that may be delegated by the chief executive officer;
- 14          (7) Shall have such powers as described in this chapter
- 15                   and as may be delegated by the members of the board;
- 16          (8) Shall attend all meetings of the board, keep a record
- 17                   of the proceedings, and shall maintain and be the
- 18                   custodian of all books, records, documents, and papers
- 19                   filed with the corporation, of the minute book of the
- 20                   corporation, and of its official seal;



- 1           (9) Shall direct and supervise the corporation's  
2           administrative affairs and technical activities in  
3           accordance with the directives of the board;
- 4           (10) Shall approve all accounts for salaries and allowable  
5           expenses of the corporation or of any employee or  
6           consultant thereof;
- 7           (11) May hire staff and employees to fill positions that  
8           may be provided for in the airport corporation's  
9           annual budget; provided that the functions and duties  
10          of all positions shall be provided for in the bylaws  
11          of the airport corporation; and
- 12          (12) Shall perform such other duties as may be directed by  
13          the board in carrying out the purpose of the  
14          corporation.
- 15          (e) The airport corporation shall establish bylaws  
16          providing for, upon the vacancy of the position of the chief  
17          executive officer, the automatic succession of a deputy  
18          executive officer on an interim basis until a permanent chief  
19          executive officer is appointed.
- 20          (f) The number of members of the board necessary to  
21          constitute a quorum to do business shall be a majority of the  
22          members.



1           §   -3 Powers; generally. Except as otherwise provided in  
2 this chapter, the airport corporation:

3           (1) Shall exercise power and control over airports, air  
4 navigation facilities, buildings, and other facilities  
5 belonging to, or controlled by, the airport  
6 corporation;

7           (2) Shall exercise general supervision over aeronautics  
8 within the State and, in connection, within,  
9 encourage, foster, and assist in the development of  
10 aeronautics in the State, and encourage the  
11 establishment of airports and air navigation  
12 facilities;

13           (3) Shall provide for the landing, taking-off, and  
14 servicing of aircraft, and the loading and unloading  
15 of passengers and cargo;

16           (4) Shall provide for the comfort, accommodation, and  
17 convenience of air travelers;

18           (5) Shall establish performance targets and performance  
19 standards to achieve the highest levels of customer  
20 service;

21           (6) Shall cooperate with and assist the federal government  
22 and other persons in the development of aeronautics;



- 1           (7) Shall seek to coordinate the aeronautical activities  
2                   of the State with those activities of the federal  
3                   government;
- 4           (8) Shall ensure that appropriate mission statements,  
5                   business plans, minimum development standards, and  
6                   strategic goals are established and that progress  
7                   towards their accomplishment is regularly assessed and  
8                   reported;
- 9           (9) Shall develop an organization and management structure  
10                   to best accomplish the goals of the Hawaii airport  
11                   system and the corporation;
- 12          (10) Shall develop and implement policies and procedures  
13                   for the timely and efficient procurement of  
14                   professional services; planning, engineering, and  
15                   construction services; and other services and materiel  
16                   as may be required for the development, management,  
17                   and operation of the airport system, consistent with  
18                   accepted standards of probity, transparency, and  
19                   accountability for a public body. The corporation  
20                   shall not be subject to chapter 103D and any other  
21                   requirements of law for competitive bidding for  
22                   project agreements, construction contracts,



- 1 professional services, and lease and sublease  
2 agreements;
- 3 (11) Shall employ staff subject to public employment laws,  
4 and establish compensation programs to ensure that  
5 qualified staff can be remunerated competitively;
- 6 (12) Shall appoint officers, agents, and employees through  
7 the chief executive officer, prescribe their duties  
8 and qualifications, and fix their salaries;
- 9 (13) May use the facilities and services of any department,  
10 board, commission, or agency of the State or counties,  
11 subject to the provisions of memoranda of  
12 understanding approved by the board;
- 13 (14) May sue and be sued;
- 14 (15) Shall have a seal and may alter the seal at its  
15 pleasure;
- 16 (16) May make and execute contracts and all other  
17 instruments necessary or convenient for the exercise  
18 of its powers and functions under this chapter;
- 19 (17) Shall establish bylaws for its organization and  
20 internal management;
- 21 (18) Shall adopt rules pursuant to chapter 91 to carry out  
22 the purpose of this chapter;





- 1       (19) Shall adopt an annual budget for its operations,  
2             maintenance, and capital improvements;
- 3       (20) May own, sell, lease, hold, clear, improve, and  
4             rehabilitate real, personal, or mixed property, and  
5             assign, exchange, transfer, convey, lease, sublease,  
6             or encumber any airport, or any project, improvement,  
7             or facility related thereto; provided that the  
8             corporation and corporation lands shall not be subject  
9             to chapter 171;
- 10       (21) Shall develop, construct, reconstruct, rehabilitate,  
11            improve, alter, or repair, or provide for the  
12            development, construction, reconstruction,  
13            rehabilitation, improvement, alteration, or repair of,  
14            any airport, or any project, improvement, or facility  
15            related thereto;
- 16       (22) May own, hold, assign, transfer, convey, exchange,  
17            lease, sublease, or encumber any airport or any  
18            project, improvement, or facility related thereto;
- 19       (23) Shall arrange or initiate appropriate action for the  
20            planning, opening, grading, relocating, or closing of  
21            streets, roads, roadways, alleys, easements, or other  
22            places; the furnishing of facilities; the acquisition



- 1 of property or property rights; and the furnishing of  
2 property, development rights, or services in  
3 connection with any airport or any project,  
4 improvement, or facility related thereto;
- 5 (24) May grant options or renew any lease entered into by  
6 it in connection with any project, on terms and  
7 conditions as it deems advisable;
- 8 (25) May engage the services of consultants on a  
9 contractual basis for rendering professional and  
10 technical assistance and advice;
- 11 (26) 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 (27) 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 airport  
18 corporation purposes;
- 19 (28) May pledge or assign all or any part of the moneys,  
20 fees, rents, charges, or other revenues and proceeds  
21 derived by the airport corporation from the proceeds  
22 of insurance or condemnation awards for the loss of



- 1 revenues or incurring of costs and expenses because of  
2 any action taken by the airport corporation;
- 3 (29) Shall fix, impose, prescribe, and collect rates,  
4 rentals, fees, or charges for the lease, use, and  
5 services of its airport facilities at least sufficient  
6 to pay the costs of operation, maintenance, and  
7 repair, if any, and the required payments of the  
8 principal of, and interest on, all bonds issued or  
9 assumed by the airport corporation and reserves  
10 therefor;
- 11 (30) May engage in economic development programs and  
12 contract with the department of business, economic  
13 development, and tourism or nonprofit corporations in  
14 the furtherance of economic development;
- 15 (31) May take all actions necessary under emergencies such  
16 as hurricanes, tsunamis, and other natural disasters;
- 17 (32) Shall plan, construct, operate, and maintain all  
18 airport facilities in the State;
- 19 (33) May allot airport funds, issue revenue bonds and  
20 special facility revenue bonds in its name pursuant to  
21 chapter 39, but not in excess of such principal



- 1 amounts as are necessary for its purposes or specified  
2 in covenants with bondholders;
- 3 (34) May invest and secure its moneys in accordance with  
4 chapters 36 and 38;
- 5 (35) May take public and private property for use in  
6 furthering any of the purposes of the airport  
7 corporation; provided that all proceedings for  
8 condemnation shall be conducted in accordance with  
9 chapter 101;
- 10 (36) May provide compensation, allowance, or other  
11 assistance to any person for relocation or  
12 displacement caused by the acquisition of land for  
13 airport purposes;
- 14 (37) May hire or contract law enforcement personnel;
- 15 (38) May license all airports and heliports within the  
16 State, pursuant to all federal and state rules and  
17 regulations, and the procedures of the airport  
18 corporation;
- 19 (39) May approve all safety, security, and federal  
20 certification plans, procedures, and specifications  
21 related to the operation, management and development  
22 of all airports and heliports within the State; and



1 (40) May do any and all things necessary to carry out its  
2 powers and duties pursuant to this chapter."

3 SECTION 3. Section 261-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§261-2 Development of aeronautics, general. The  
6 department of transportation shall have general supervision over  
7 aeronautics within the State[-]; provided that on July 1, 2018,  
8 the general supervision shall be transferred to the Hawaii  
9 airport corporation. It shall encourage, foster, and assist in  
10 the development of aeronautics in the State and encourage the  
11 establishment of airports and air navigation facilities. It  
12 shall cooperate with and assist the federal government and other  
13 persons in the development of aeronautics and shall seek to  
14 coordinate the aeronautical activities of the State with those  
15 of the federal government. Municipalities may cooperate with  
16 the department in the development of aeronautics and aeronautics  
17 facilities in the State."

18 SECTION 4. The Hawaii airport corporation shall be a  
19 successor agency, and jurisdiction over aeronautics and  
20 airports, including airport functions under the department of  
21 transportation's airports division, shall be transferred to the  
22 Hawaii airport corporation on July 1, 2018.



1 To the extent that the Hawaii airport corporation is  
2 authorized in this Act to exercise powers and duties which are  
3 also granted to other departments, offices, or boards of the  
4 State, with respect to airports and aeronautical facilities, the  
5 Hawaii airport corporation shall exercise such powers and  
6 perform such duties in lieu of any other departments, offices,  
7 and boards.

8 SECTION 5. The State shall facilitate the corporation's  
9 governance over airports and provide an orderly transition of  
10 ownership, jurisdiction, assets, liabilities, powers, funds,  
11 accounts, contracts, employees, and any other rights, benefits,  
12 or obligations, and authority to control, operate, develop, and  
13 maintain airports and aeronautical facilities from the  
14 department of transportation to the corporation prior to July 1,  
15 2018.

16 SECTION 6. The Hawaii airport corporation shall procure  
17 services and materiel pursuant to chapter 103D, Hawaii Revised  
18 Statutes, and shall not be exempt from chapter 103D, Hawaii  
19 Revised Statutes, until such time that the corporation develops  
20 and implements policies and procedures for the timely and  
21 efficient procurement of services and materiel pursuant to  
22 section -3(10), Hawaii Revised Statutes.



1 SECTION 7. The office of the auditor shall periodically  
2 review and audit procurement practices conducted by the Hawaii  
3 airport corporation to ensure compliance with the policies and  
4 procedures established pursuant to section -3(10), Hawaii  
5 Revised Statutes.

6 SECTION 8. The revisor of statutes shall substitute the  
7 phrase "Hawaii airport corporation" in chapter 261, Hawaii  
8 Revised Statutes, wherever the word "department" appears, as the  
9 context requires, except for the amendments made to section 261-  
10 2, Hawaii Revised Statutes, in section 3 of this Act.

11 SECTION 9. The revisor of statutes shall substitute the  
12 phrase "Hawaii airport corporation" in chapter 261, Hawaii  
13 Revised Statutes, wherever the words "department of  
14 transportation" appears, as the context requires, except for the  
15 amendments made to section 261-2, Hawaii Revised Statutes, in  
16 section 3 of this Act.

17 SECTION 10. The revisor of statutes shall substitute the  
18 phrase "chief executive officer" in chapter 261, Hawaii Revised  
19 Statutes, wherever the word "director" appears, as the context  
20 requires, except for the amendments made to section 261-2,  
21 Hawaii Revised Statutes, in section 3 of this Act.



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

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

13 SECTION 13. If any provision of this Act, or the  
14 application thereof to any person or circumstance, is held  
15 invalid, the invalidity shall not affect the other provisions or  
16 applications of this Act that can be given effect without the  
17 invalid provision or application, and to this end the provisions  
18 of this Act are severable.

19 SECTION 14. All rights, powers, functions, and duties of  
20 the department of transportation's airports division are  
21 transferred to the Hawaii airport corporation on July 1, 2018.  
22 The Hawaii airport corporation shall be a successor employer to





1 the State, and shall recognize all bargaining units and  
2 collective bargaining agreements existing at the time of  
3 transfer to the corporation. The employees of the corporation  
4 shall be considered employees of the State as provided in this  
5 section. The corporation shall not be required to comply with  
6 the policies of the department of human resources development  
7 with regard to approval for the creation of new positions, the  
8 number of such positions, the decision to fill such positions,  
9 or the time for filling such positions.

10 All employees who occupy civil service positions and whose  
11 functions are transferred to the Hawaii airport corporation by  
12 this Act shall retain their civil service status, whether  
13 permanent or temporary. Employees shall be transferred without  
14 loss of salary, seniority (except as prescribed by applicable  
15 collective bargaining agreements), retention points, prior  
16 service credit, any vacation and sick leave credits previously  
17 earned, and other rights, benefits, and privileges, in  
18 accordance with state personnel laws and this Act; provided that  
19 the employees possess the minimum qualifications and public  
20 employment requirements for the class or position to which  
21 transferred or appointed, as applicable.



1 Any employee who, prior to this Act, is exempt from civil  
2 service and is transferred as a consequence of this Act may  
3 retain the employee's exempt status, but shall not be appointed  
4 to a civil service position as a consequence of this Act. An  
5 exempt employee who is transferred by this Act shall not suffer  
6 any loss of prior service credit, vacation or sick leave credits  
7 previously earned, or other employee benefits or privileges as a  
8 consequence of this Act; provided that the employee possesses  
9 legal and public employment requirements for the position to  
10 which transferred or appointed, as applicable. The chief  
11 executive officer of the Hawaii airport corporation may  
12 prescribe the duties and qualifications of these employees and  
13 fix their salaries without regard to chapter 76, Hawaii Revised  
14 Statutes.

15 No employee covered by a collective bargaining unit as an  
16 employee of the department of transportation shall be laid off  
17 as a result of the creation of the Hawaii airport corporation.  
18 The officers and all other employees of the Hawaii airport  
19 corporation shall be state employees for the purposes of  
20 benefits and retirement. The corporation shall reimburse the  
21 appropriate state agencies for all costs incurred by such  
22 designation.



1           In addition to positions transferred to the corporation,  
2 the Hawaii airport corporation may create one or more new  
3 classifications of employees as determined by the board of  
4 directors of the corporation. The classifications shall not be  
5 deemed comparable to other civil service classifications, and  
6 may be exempt from classified service. On and after July 1,  
7 2018, the corporation may hire employees into new unclassified  
8 positions without regard to any collective bargaining agreement  
9 then in effect and may set the initial terms and conditions of  
10 employment for all employees in new unclassified positions.

11           SECTION 15. On July 1, 2018, all appropriations, records,  
12 equipment, machines, files, supplies, contracts, books, papers,  
13 documents, maps, and other personal property heretofore made,  
14 used, acquired, or held by the department of transportation  
15 relating to the functions transferred to the Hawaii airport  
16 corporation shall be transferred with the functions to which  
17 they relate.

18           SECTION 16. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20           SECTION 17. This Act shall take effect on July 1, 2050.



**Report Title:**

Tourism; Transportation; Hawaii Airport Corporation

**Description:**

Establishes the Hawaii Airport Corporation within the Department of Transportation for administrative purposes, to be operational on July 1, 2018. Sets out appointment of members to the board of directors and powers and duties of the Hawaii Airport Corporation. Transfers the aeronautics functions of DOT to the Hawaii Airport Corporation. (HB1443 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*





Ann Botticelli  
SVP Corporate Communications and  
Public Affairs

TESTIMONY IN SUPPORT OF HB 1443, HD2 –  
RELATING TO AN AIRPORT CORPORATION

Date: Thursday, February 23, 2017  
Time: 11:00 am  
Location: Conference Room 308  
Hawai'i State Capitol

Aloha Chair Luke, Vice Chair Cullen and members of the House Finance committee,

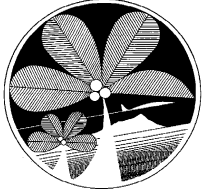
I appreciate the opportunity to affirm Hawaiian Airlines' strong support for the creation of an Airport Corporation, which will simplify the process of making badly needed improvements to our Airport infrastructure, improving the travel experience for visitors and locals alike. Hawaiian Airlines and the other airport users whose private money fund airport operations in their entirety are anxious to implement the improved process and efficiency promised by the creation of an Airport Corporation.

The amendments in HB 1443, HD 2 reflect concerns raised by the state Attorney General regarding the use of public money. We believe this measure will benefit from a review of states with Constitutions similar to Hawai'i's in which Airport Authorities are in place and functioning well. We encourage the committee to move this measure forward to allow all parties to resolve concerns and enjoy the benefits an Airport Corporation would provide.

Respectfully submitted,

Ann Botticelli  
SVP Corporate Communications and Public Affairs  
Hawaiian Airlines

# AIRLINES COMMITTEE OF HAWAII



Honolulu International Airport  
300 Rodgers Blvd., #62  
Honolulu, Hawaii 96819-1832  
Phone (808) 838-0011  
Fax (808) 838-0231

February 23, 2017

Honorable Sylvia Luke, Chair  
Honorable Ty Cullen, Vice Chair  
House Committee on Finance

**Re: HB 1443 HD2 – RELATING TO AN AIRPORT CORPORATION – SUPPORT**  
Conference Room 308 – 11:00 AM; **Agenda #1**

Aloha Chair Luke, Vice Chair Cullen and Members of the Committee:

The Airlines Committee of Hawaii\* (ACH), which is made up of 20 signatory air carriers that underwrite the State Airport System, appreciates the opportunity to offer testimony supporting HB 1443 HD2, which authorizes the establishment of the Hawaii Airport Corporation.

We support the concept of HB 1443 HD2, however, would like to offer the following comments for the Committee's consideration:

- 1) The original bill was amended to delete the power of the Corporation to appropriate airport funds. We believe this is a critical issue and hope it may be resolved so the Corporation has the flexibility it needs to achieve its objectives; and
- 2) Respectfully request additional language requiring that at least one member of the board have aviation experience in addition to business and management experience.

HB 1443 HD2 addresses the many concerns about Hawaii's airports failing to provide a warm and welcoming experience for visitors by creating a means to efficiently and expediently execute much-needed projects at the airports. Experience at other US airports show that airport authorities can develop and implement policies and procedures designed to deliver uniquely complex airport capital programs more effectively and in a more timely fashion, while retaining full public transparency and accountability.

The Hawaii Airport Corporation will be self-sustaining and not require any tax payer dollars; it is fully funded by user fees and underwritten by the airlines serving the State's airport system. The Hawaii Airport Corporation will benefit from consistent leadership that can deliver on a long term vision for the airports.

Thank you for the opportunity to submit testimony.

Sincerely,

Blaine Miyasato  
ACH Co-chair

Turner Maynor  
ACH Co-chair

*\*ACH members are Air Canada, Air New Zealand, Alaska Airlines, All Nippon Airways/Air Japan, Aloha Air Cargo, American Airlines, China Airlines, Delta Air Lines, Federal Express, Fiji Airways, Hawaiian Airlines, Island Air, Japan Airlines, Korean Air, Philippine Airlines, Qantas Airways, United Airlines, United Parcel Service, Virgin America and WestJet.*

# SanHi Government Strategies

Gary M. Slovin  
Mihoko E. Ito  
R. Brian Tsujimura

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[mito@awlaw.com](mailto:mito@awlaw.com)  
[rtsujimura@awlaw.com](mailto:rtsujimura@awlaw.com)

DATE: February 22, 2017

TO: Representative Sylvia Luke  
Chair, Committee on Finance  
*Submitted via Capitol Website*

RE: **HB 1443, HD2 Relating to An Airport Corporation**  
**Hearing Date: Thursday, February 23, 2017 at 11:00 a.m.**  
**Conference Room: 308**

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Dear Chair Luke and Members of the Committee on Finance:

We submit this testimony on behalf of Enterprise Holdings, which includes Enterprise Rent-A-Car, Alamo Rent-A-Car, National Car Rental, Enterprise CarShare and Enterprise RideShare (Van Pool).

Enterprise **supports** the intent of H.B. 1443, HD2 which would authorize the establishment of the Hawaii airport corporation within the Department of Transportation. Enterprise believes it is important to establish an independent airport authority to oversee the transformation of our state airports into world class facilities. A single entity with consolidated jurisdiction over the development, management, and operation of Hawaii's airports would streamline processes and improve efficiencies. This would greatly benefit travelers to our islands, as well as all businesses that serve the Hawaii hospitality and tourism market.

For these reasons, we support H.B. 1443, HD2 and respectfully request that the Committee pass this measure. Thank you for the opportunity to submit this testimony.

---

Gary M. Slovin  
Mihoko I. Ito  
R. Brian Tsujimura  
C. Mike Kido  
Tiffany N. Yajima  
Matthew W. Tsujimura



# Maui Hotel & Lodging

ASSOCIATION

Testimony of

**Lisa H. Paulson**

Executive Director

Maui Hotel & Lodging Association

on

HB 1443 HD2

**Relating To An Airport Corporation**

COMMITTEE ON FINANCE

**Thursday, February 23, 2017, 11:00 am**

**Conference Room 308**

Dear Chair Luke, Vice Chair Cullen and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 175 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 25,000 residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

MHLA is **in support** of HB 1443 HD2, which establishes the Hawaii Airport Corporation within the Department of Transportation for administrative purposes, to be operational on July 1, 2018. Sets out appointment of members to the board of directors and powers and duties of the Hawaii Airport Corporation. Transfers the aeronautics functions of DOT to the Hawaii Airport Corporation.

MHLA believes that this measure could facilitate the completion of long-needed airport improvement and also create a platform for integrated planning that will greatly benefit the traveling public. These much-needed improvements will be paid for by the airlines and concessionaires that use the airports, together with the existing passenger facility charges already included with every airfare. There will be no expense to local taxpayers with no public tax dollars used.

The first and last impressions of our visitors occur at our airports. The hospitality industry's continued progress is very dependent on the quality of our airports. It is vital that we improve upon the service, infrastructure, and overall development of such a vital entity. We support the airport corporation as a single entity to overlook our airport's planning, management, marketing and development.

Thank you for the opportunity to testify.



Douglas Meller  
2615 Aaliamanu Place  
Honolulu, Hawaii 96813  
dougasmeller@gmail.com

## **Testimony Opposing HB 1443, HD 2, Relating to an Airport Corporation**

Submitted to House Committee on Finance  
11 am, February 23, 2017 Hearing in Conference Room 308

HB 1443, HD 2 cannot accomplish what is desired by the agencies and organizations which support it. Instead of enacting ineffective legislation, I suggest that you replace the current contents of this bill with a mandate and appropriation for the Legislative Auditor to:

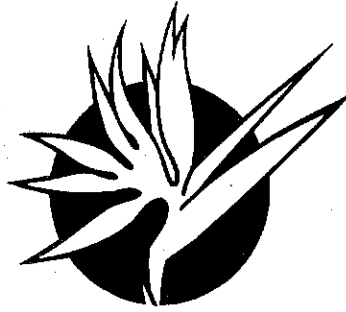
- study “best-practices” for airport funding, operation, and management and
- recommend appropriate Constitutional and statutory amendments to adapt “best practices” for Hawaii’s situation.

HDOT’s February 3, 2017 testimony on HB 1443 alleged that “State-imposed constraints to Airport operating budgets and staffing have resulted in progressive deterioration of the quality of terminal facilities . . . below the standard of other airports serving leading global destinations.” I agree. But HB 1443, HD 2 will not help. Without a Constitutional amendment, the Legislature, Governor, and Department of Budget and Finance will continue to impose “constraints” on the proposed Airport Corporation’s expenditures and staffing.

HDOT’s February 3, 2017 testimony on HB 1443 also alleged that “Distributed responsibility and involvement by multiple agencies, sometimes with conflicting goals and priorities, results in delay to decision-making, inefficiency and reduced effectiveness.” I agree. But HB 1443, HD 2 will not help. Merely creating an Airport Corporation with authority to establish its own procurement procedures will not reduce conflicts with other agencies which require space in airports and which need additional funding and staffing to reduce delays for airport passengers. Because the DOA, DLNR, and DOH need to use airport facilities, and because these agencies need to assess fees on airport users to adequately fund state programs to control introduction of noxious non-native plants, animals, and diseases, the proposed Airport Corporation should be assigned clear statutory responsibility to cooperate with and to assist these agencies. Moreover, because several underfunded federal agencies need to screen embarking or disembarking passengers at airports, the proposed Airport Corporation also needs a clear statutory mandate to use Airport Corporation funds to “purchase” sufficient federal employees to reduce delays for passengers using Hawaii airports.

Before establishing a new semi-autonomous Airport Corporation, I also suggest that the Legislature ask the Legislative Auditor to reconsider potentially problematic airport-related “financial considerations”. For example, should the State continue to subsidize airports by not

collecting excise tax revenues generated by Duty Free shops outside of airports? Or, for example, should the Airport Corporation be authorized to subsidize/favor certain enterprises, with non-bid below-market leases of public property? Or, for example, how should OHA be compensated for revenues arising from airport use of ceded lands? In my opinion, none of these questions has been adequately addressed.



## AIRPORT CONCESSIONAIRES COMMITTEE

Honorable Sylvia Luke, Chair  
Committee on Finance  
House of Representatives  
Hawaii State Capitol

February 23, 2017, 11:00 a.m., Room 308

Re: H.B. 1443, HD2 – Relating To An Airport Corporation

Dear Chair Luke and Honorable Committee Members,

My name is Peter Fithian and I am the Legislative Chair for the Airports Concessionaires Committee whose membership consists of the major concession operators at Hawaii's public airports. Airport concessions presently and historically have contributed more than half of the operating revenues for Hawaii's airport system which as you know is special funded.

Our Committee supports this bill and urge you to keep it moving.

Such a corporation would increase airport revenues and also save airport operations costs. The current approval process is simply too long and typically requires approvals and obvious delays/reviews each step of the way such as with the Department of Accounting and General Services and Department of Budget and Finance and other State Departments

As a result it's not unusual for final approvals to take 9 months , 12 months and at times longer before an approval is granted.

Airports are typically viewed as an economic engine of a city and state at which hundreds of jobs are provided with thousands of business transactions involving tourists, residents and many others each day. Airports in that respect are unlike other government agencies. Airports are an important economic hub and needs to run and operate in a business fashion quickly and efficiently. Such has not been the case under the present arrangement.

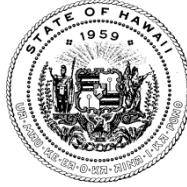
In our view, the current process is such that has resulted in the airport losing money due to delays in finalizing contracts and gaining necessary approvals.

The current process is such that before tenant improvements can receive necessary approvals much time passes resulting in higher construction costs to the tenants especially in the present construction market as well as airport projects.

Their simply has to be a better way to avoid losing money and to also avoid both airport tenants and the airport system being faced with higher construction costs.

We respectfully urge you to consider and support an Airport Corporation which is similarly to what many other airport across the United States have recognized as having great benefits and also savings to their community and state.

Thank you for allowing us to testify.



Testimony by:  
FORD N. FUCHIGAMI  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN  
DARRELL T. YOUNG

IN REPLY REFER TO:

**LATE**

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

February 23, 2017  
11:00 a.m.  
State Capitol, Room 308

**H.B. 1443, H.D. 2  
RELATING TO AN AIRPORT CORPORATION**

House Committee on Finance

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The Department of Transportation (DOT) – Airports Division **supports** H.B.1443, H.D.2 with comments, specifically addressing the proposed amendment to delete the power of the Corporation to appropriate airport funds.

The DOT is working actively with the Attorney General’s office to come forward with a determination on the appropriation issue and if legally possible, the DOT proposes to restore the original language in H.B.1443 which allows the Airport Corporation to appropriate and allot airport funds. A streamlined approval process would substantially increase effectiveness and enable accelerated delivery of needed capital improvements, with direct benefits to job creation and economic contribution.

At present, responsibility for development, management and operation of the State’s Airports System is distributed among several State departments. Further, key decision-making is vested in the State legislature, which is only in session for part of each year. Distributed responsibility and involvement by multiple agencies, sometimes with conflicting goals and priorities, results in delay to decision-making, inefficiency and reduced effectiveness.

Such delays have stalled the Airport System capital programs, resulting in lost economic contribution and jobs, and insufficient airport capacity to meet future airline needs. At the same time, despite the financial self-sufficiency of the Airport System, State-imposed constraints to Airport operating budgets and staffing have resulted in progressive deterioration of the quality of terminal facilities, which no longer reflect the best of our great State, and are increasingly well below the standard of other airports serving leading global destinations.

Unlike other units of State government, its Airports are self-sustaining businesses, which must operate with a strong commercial and customer service focus, and must be rapidly responsive to opportunities and market conditions. Such a Corporation would create a single-purpose entity, configured with all the powers, capabilities and attributes

necessary to improve efficiency and implement airport industry best practices in all aspects of operation.

An independent Airport Corporation with a dedicated decision-making Board meeting throughout the year would enable capital program decisions to be made more rapidly and commercially important opportunities to be pursued more responsively. Streamlined procedures for budgeting, and procurement, and human resources processes configured to the unique needs of the Airport System would enable the airport enterprise to operate more efficiently. Operating budgets defined by airport needs would enable improvement both to terminal facilities and the quality of services and amenities offered to visitors, consistent with current airport industry standards.

While such an Airport Corporation would be independent of other State departments, it would retain full public accountability via Board appointments, public meetings, and full transparency of all policies and procedures, consistent with public sector standards and best practices. Further, recognizing the unique importance of the Airports System to our island State, DOT believes that an independent Airport Corporation, operating airports to achieve their full potential, would maximize their contribution to the State economy, improve global access and inter-island mobility, and in so doing strengthen their critical role in sustaining the social and cultural fabric of the State.

Thank you for the opportunity to provide testimony.



Testimony of

Mufi Hannemann  
President & CEO  
Hawai'i Lodging & Tourism Association

House Committee on Finance

House Bill 1443, House Draft 2: Relating to an Airport Corporation

Chair Luke, Vice Chair Cullen, and members of the Committee:

Thank you for the opportunity to testify. On behalf of the Hawai'i Lodging & Tourism Association, we support House Bill 1443 HD2 which would establish a Hawai'i airport corporation. For HLTA, the state's largest private sector visitor organization, this is one of our major objectives.

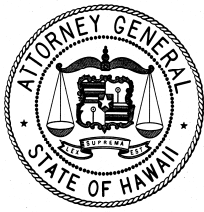
The Department of Transportation is a very large state department which is responsible for our roads, harbors, and airports. Our state's airports serve as the first and last impression to those visiting our islands. Given the importance of our airports, we fully support the establishment of a state airport corporation. The corporation would give a laser-like focus to the operations, goal setting, and improvements of our airports, and would allow for quicker and more efficient results. That being said we would like to offer a comment in regards to an amendment made in the original bill. We believe that the capability to appropriate airport funds is a key function of the airport corporation in its ability to achieve its objectives and we ask for your committee's consideration in re-addressing this factor.

Our airports serve as our window to the world, and the hospitality industry's continued success is very dependent on the quality provided by our airports; so it is critically important that we improve upon the service, infrastructure, and overall development of such a vital entity. With year-round governance, the corporation would be able to better accommodate our air travelers by providing a higher level of comfort and convenience as well as establish standards and goals in achieving a higher caliber of customer service. It would also provide better transparency and public accountability by engaging stakeholders and all interested parties in the decision-making process.

It is imperative that we keep our airports at the forefront of our state's priorities. Visitors to our islands are always impressed when they experience examples of our Aloha Spirit and the beauty of our Native Hawaiian culture - our airports can be one of the best venues to experience these memorable moments.

We understand that these sorely needed airport improvements will be paid by the airlines and concessionaires that utilize the airports coupled with the existing passenger facility fees already included in the airfares. In short, HLTA enthusiastically supports an independent airport corporation as the overarching entity to oversee our airports' planning, management and marketing and development; all under one umbrella.

Mahalo for your consideration of House Bill 1443.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2017**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1443, H.D. 2, RELATING TO AN AIRPORT CORPORATION.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**LATE**

**DATE:** Thursday, February 23, 2017      **TIME:** 11:00 a.m.

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Michael Q.Y. Lau, Deputy Attorney General

---

Chair Luke and Members of the Committee:

The Department of the Attorney General provides the following comments on this measure.

The purpose of the bill is to establish the Hawai'i airport corporation (the "corporation") to manage state airports. The corporation would be placed within the Department of Transportation for administrative purposes.

**Appointments**

Subsection (b) on page 5, lines 5-12, of the new section -2 of the new Hawaii Revised Statutes chapter being added by section 2 of the bill provides that the corporation board of directors shall consist of five members:

- Three who are appointed by the Governor;
- One appointed by the Speaker of the House; and
- One appointed by the President of the Senate.

The direct appointment by the House Speaker and Senate President might be challenged as violating the separation of powers doctrine under the Hawai'i Constitution. However, we recognize that the Hawaii Revised Statutes contains examples of executive boards and commissions to which the Legislature appoints members. See, e.g., Elections Commission (Haw. Rev. Stat. § 11-7). Nevertheless, obviate a potential challenge, we suggest that wording be added to the bill that provides that the Governor shall appoint all five members of the board of directors.



### **Chapter 171**

The “shall not be subject to chapter 171” wording in paragraph (20) on page 12, lines 8-9, gives the corporation complete management control over the public lands currently managed by the DOT. This comment and the suggested revisions in this testimony do not address the policy implications of making this change.

It is not clear what the “related thereto” means as used in paragraph (20) on page 12, line 7, paragraph (21) on page 12, line 15, paragraph (22) on page 12, line 18, and paragraph (23) on page 13, line 4, of the new section -3 in section 2. If the intent is to relate the actions to the corporation’s management of airports, “related thereto” should be revised to “related to airports controlled by the corporation.”

Paragraph (22) on page 12, lines 16-18, of the new section -3 in section 2, appears redundant to paragraph (20) on page 12, lines 3-9, of the new section -3 in section 2. Accordingly, paragraph (22) should be deleted for clarity.

Paragraph (21) on page 12, line 10, and paragraph (23) on page 12, line 19, of the new section -3 in section 2 uses the term “shall.” If the intent is to make the actions referenced in these paragraphs discretionary, “may” should be used instead of “shall.”

“Airport” as used in paragraph (21) on page 12, line 14, and “streets, roads, roadways, alleys, easements, or other places” as used in paragraph (23) should be qualified by including “located on land controlled by the corporation.”

### **Employment**

Paragraph (3) on page 6, lines 6-8, of the new section -2 provides that “[e]xcept as provided in this chapter, no [board] member appointed under this section shall be an officer or employee of the State or the counties.” However, there is no wording in the chapter that provides an exception. In other words, as currently written, the bill has no exception that permits a state or county employee to serve on the board of directors and the current wording is superfluous.

Paragraph (6) on page 7, line 10, of the new section -2 provides that the corporation may appoint “such deputy executive officers as the chief executive officer deems appropriate.” If the intent is that the “deputy executive officers” be exempt from

civil service requirements, wording should be added to identify what provision in section 76-16(b), HRS, authorizes the exemption.

Paragraph (11) on page 8, lines 7-11, of the new section -2 provides that the corporation may hire staff and employees to fill positions that may be provided for in the corporation's annual budget, and that the functions and duties of all positions shall be provided for in the bylaws of the corporation. "Staff" would be state employees working for the corporation. Accordingly, it is not clear why the use of the term "staff" is necessary. Moreover, at least some corporation employees will be civil service employees. See e.g., section 14, page 20, lines 10-12, of the bill. The hiring of civil service employees must be based upon merit pursuant to article XVI, section 1 of the Hawai'i Constitution and chapter 76, HRS.

Paragraph (11) on page 11, line 3, of the new section -3 provides that the corporation shall employ staff subject to public employment laws. Accordingly, the employment of "staff" will be subject to chapter 76 and 89, HRS. It is not clear why the term "staff" was used instead of "employees."

Paragraph (12) on page 11, line 6, of the new section -3 provides that the corporation shall appoint officers, agents, and employees through the chief executive officer. If the intent is that the appointment of these persons will be exempt from the civil service requirements, wording should be added to identify what provision in section 76-16(b), HRS, authorizes the exemption..

Section 8 on page 18, lines 6-10, provides that the revisor of statutes shall substitute the corporation in chapter 261, HRS, wherever the word "department" appears. Chapter 261 governs the operation of the statewide airport system. There is no date provided as to when the substitution will take effect. The transfer from the department to the corporation is scheduled to occur on July 1, 2018. The substitution should not take effect prior to the transfer; if the substitution occurs prior to this time, chapter 261 will not be applicable to the department.

Section 9 on page 18, lines 11-16, provides that the Revisor of Statutes shall substitute the corporation in chapter 261, HRS, wherever the words "department of transportation" appear. There is no date provided as to when the substitution will take

effect. The transfer from the department to the corporation is scheduled to occur on July 1, 2018. The substitution should not take effect prior to the transfer; if the substitution occurs prior to this time, chapter 261 will not be applicable to the department.

Section 10 on page 18, lines 17-21, provides that the revisor of statutes shall substitute “chief executive officer” in chapter 261, HRS, wherever the word “director” appears. There is no date provided as to when the substitution will take effect. The substitution should not take effect prior to the transfer from the department to the corporation; if the substitution occurs prior to this time, chapter 261 will not be applicable to the Director of Transportation.

Section 14, page 19, line 22, and page 20, line 1, provides that the corporation shall be a successor employer to the State. However, the corporation will be administratively attached to the Department of Transportation and be part of state government. Accordingly, the corporation is not a “successor employer to the State”; the State is the employer both before and after the transfer from the department to the corporation.

Section 14, page 20, lines 3-9, provides that the employees of the corporation shall be considered employees of the State but the corporation shall not be required to comply with the policies of the Department of Human Resources development with regard to approval for creation of new positions, the number of positions, the decision to fill such positions, or the time for filling such position. However, the bill previously stated in paragraph (11) on page 11, line 3, of the new section -3 that the corporation shall employ staff subject to public employment laws. The bill is ambiguous as to what positions will be required to comply with public employment laws.

Section 14, page 20, lines 10-13, provides that all employees who occupy civil service positions who are transferred to the corporation shall retain their civil service status. However, the section goes on to provide in lines 19-21 that the employee must possess the minimum qualifications and public employment requirements for the position. These employees are current employees, which makes the qualification requirements contradictory.

Section 14, page 21, lines 10-14, provides that the chief executive officer “may prescribe the duties and qualifications to these [exempt] employees” and fix their salaries without regard to chapter 76, HRS. It is not clear whether the intent is to give the chief executive officer the power to revise the exempt employee’s employment requirements after the transfer from the department to the corporation.

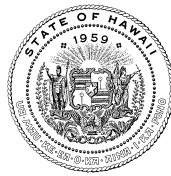
Section 14, page 21, lines 20-22, provides that “[t]he corporation shall reimburse the appropriate state agencies for all costs incurred by such designation.” It is unclear what designation is being conferred and why the corporation as a state entity should be required to pay for the costs of the designation.

Section 14, page 22, lines 1-10, provides that the corporation may create new classifications of employees who may be exempt from classified service and without regard to any collective bargaining agreement. If the intent is to exempt these positions from civil service requirements, wording should be added to identify what provision in section 76-16(b), HRS, authorizes the exemption.

We realize that our above employment comments are extensive. We would be happy to work with the Legislature to address these, and any other concerns, related to the bill.

Thank you for the opportunity to comment on this bill.

DAVID Y. IGE  
GOVERNOR



WESLEY K. MACHIDA  
DIRECTOR

LAUREL A. JOHNSTON  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN ONLY**  
TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON FINANCE  
ON  
HOUSE BILL NO. 1443, H.D. 2

**February 23, 2017**  
**11:00 a.m.**  
**Room 308**

**LATE**

RELATING TO AN AIRPORT CORPORATION

House Bill No. 1443, H.D. 2, proposes to establish the Hawaii Airport Corporation (HAC) which shall be a body politic and corporate, constituting a public instrumentality and a special political subdivision of the State, created for the performance of an essential public and government function that is to exercise general supervision over aeronautics within the State. The corporation shall be established and operate as a subdivision of the State. To accomplish this, the measure transfers the jurisdiction over aeronautics and airports, including airport functions under the Department of Transportation's (DOT) Airports Division, to the corporation on July 1, 2018. The bill also provides that the HAC shall be administratively attached to DOT.

The Department of Budget and Finance offers the following comments. This measure provides flexibility in two areas of general supervision over aeronautics operations – creation of a separate governing board with a chief executive officer and procurement flexibility through corporate policies and procedures. The Department

acknowledges that State government processes may not offer the flexibility that enterprise-like operations, such as airports, believe are necessary to support industry best practices. However, we do believe that our State government has proper internal control mechanisms in place to protect all assets under its control and it must maintain some level of accountability for funds that are collected and expended for a public purpose. Thus, we would like to work with the Governor's Office, the DOT leadership, and airport industry partners to identify functional areas where we can implement more efficient processes to support their enterprise-like operations.

Thank you for your consideration of our comments.