

JAN 25 2017

A BILL FOR AN ACT

RELATING TO AIRPORTS.

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 transportation network to
6 encourage competition and lower the cost of conducting business
7 in the State.

8 Hawaii's air transportation planning, management, and
9 development functions are currently spread out among a number of
10 agencies, including the department of transportation's harbors
11 and airports divisions, the department of health with respect to
12 environmental concerns, and the office of Hawaiian affairs with
13 respect to ceded lands issues.

14 This multijurisdictional situation has resulted in
15 inefficiencies and conflicts that are difficult to resolve
16 between agencies. In addition, this situation sometimes leads



1 to conflicting plans of action among the different agencies
2 seeking to implement different goals.

3 Recent problems experienced by the medevac night services
4 in this State could expand to the loss of air travel options on
5 Molokai and Lanai if the current multijurisdictional system is
6 allowed to persist.

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

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



1 It is the intent of the legislature that the employees of
 2 the department of transportation currently charged with the
 3 management of airports be eventually transferred to the Hawaii
 4 airport authority without loss of seniority or benefits and that
 5 future employees of the airport authority be state employees.

6 Accordingly, the purposes of this Act are to: establish the
 7 Hawaii airport authority as an independent public entity to set
 8 statewide policy on all matters relating to airports; and
 9 provide for the orderly transfer of the department of
 10 transportation's responsibilities with regard to airports to the
 11 Hawaii airport authority.

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

15 **"CHAPTER**

16 **HAWAII AIRPORT AUTHORITY**

17 § -1 **Definitions.** As used in this chapter:

18 "Administrator" means the administrator of the airport
 19 authority.

20 "Airport authority" means the Hawaii airport authority.



1 "Airport" shall include any area of land or water in those
2 portions of the airports or airports that is used, or intended
3 for use, for the landing and departure of aircraft, and any
4 appurtenant areas that are used or intended for use for airport
5 buildings or other airport facilities or rights-of-way,
6 including approaches, together with all airport buildings and
7 facilities located thereon.

8 § -2 **Hawaii airport authority; established.** (a) There
9 is established within the department of budget and finance for
10 administrative purposes the Hawaii airport authority to serve as
11 an independent public entity to establish statewide policy on
12 all matters relating to airports in Hawaii.

13 (b) The airport authority shall be a body corporate and a
14 special political subdivision of the State.

15 § -3 **Hawaii airport authority; members.** (a) The
16 airport authority shall consist of seven voting members as
17 follows:

18 (1) The administrator, who shall be an ex officio, voting
19 member of the airport authority;

20 (2) Two members who shall have a background in general
21 aviation;



1 (3) Two members who shall have a background in commercial
2 carrier aviation and be members of the general
3 aviation council of Hawaii; and

4 (4) Two members who shall represent the visitor industry
5 and the airport concessionaires.

6 (b) At least two members of the airport authority shall
7 reside in a county with a population of less than eight hundred
8 thousand.

9 (c) The members of the airport authority shall be
10 appointed by the governor pursuant to section 26-34, from a list
11 presented to the governor by the president of the senate and the
12 speaker of the house of representatives and except as
13 specifically provided by this section. Initial appointments
14 shall be for staggered terms, as determined by the governor.
15 Appointment of the members of the airport authority by the
16 governor shall be exempt from the advise and consent authority
17 of the senate. The president of the senate and the speaker of
18 the house of representatives shall consult with stakeholders to
19 compile the list presented to the governor pursuant to this
20 section.



1 (d) Except as provided in this chapter, no member of the
2 airport authority appointed under this section shall be an
3 officer or employee of the State or any of the counties.

4 (e) The airport authority shall be exempt from the
5 rulemaking requirements of chapter 91.

6 § -4 Administrator of the Hawaii airport authority. (a)

7 The airport authority shall be headed by a single executive to
8 be known as the administrator of the airport authority.

9 (b) The administrator:

10 (1) Shall have extensive aeronautical and airport
11 management expertise prior to appointment;

12 (2) Shall report directly to the governor;

13 (3) Shall be appointed by the vote of not less than five
14 members of the airport authority, excluding the
15 administrator;

16 (4) Shall be a voting member of the airport authority;

17 (5) May be removed from office by a vote of not less than
18 five members of the airport authority, excluding the
19 administrator;

20 (6) Shall have the powers described in this chapter and as
21 may be delegated by the airport authority;



1 (7) May appoint, with the majority consent of the members
2 voting thereon, a deputy administrator for each county
3 as the administrator deems appropriate; and

4 (8) May hire staff and employees to fill positions that
5 may be provided for in the airport authority's annual
6 budget.

7 (c) The airport authority shall adopt bylaws providing for
8 the automatic succession of a deputy administrator to the vacant
9 post of administrator on an interim basis and until a permanent
10 administrator is appointed.

11 § -5 **Staff.** (a) Each deputy administrator shall
12 exercise the authority and discharge the duties delegated to
13 that deputy administrator by the airport authority and the
14 administrator. Each deputy administrator shall report to, and
15 be under the supervision of, the administrator.

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

19 (c) The functions, duties, and compensation of all
20 positions, and the discharge of any staff or employee hired by



1 the administrator, shall be provided for in the bylaws of the
2 airport authority.

3 § -6 Hawaii airport authority; powers and duties. (a)

4 Except as otherwise provided in this chapter, the airport
5 authority:

6 (1) Shall exercise power and control over airports and
7 related facilities and buildings to provide for:

8 (A) The landing, taking-off, and servicing of
9 aircraft, and the loading and unloading of
10 passengers and cargo;

11 (B) The comfort, accommodation, and convenience of
12 air travelers; and

13 (C) Any matter related to the foregoing;

14 (2) Shall:

15 (A) Exercise general supervision over aeronautics at
16 airports within the State and, in connection
17 therewith, encourage, foster, and assist in the
18 development of aeronautics in the State, and
19 encourage the establishment of airports and air
20 navigation facilities;



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- 1 (B) Cooperate with and assist the federal government,
2 including the Federal Aviation Administration,
3 and other persons in the development of
4 aeronautics;
- 5 (C) Seek to coordinate the aeronautical activities of
6 the State with those activities of the federal
7 government;
- 8 (D) Establish uniformity of rules in airports across
9 the State;
- 10 (E) Develop and implement a strategic plan to improve
11 small airports, including the development of
12 restaurants, shops, and appurtenant areas
13 pursuant to airport best practices;
- 14 (F) Ensure that all airports with facilities in
15 general aviation and commuter aviation comply
16 with the requirements established pursuant to
17 title 14 Code of Federal Regulations, chapter I,
18 subchapter I, as amended; and
- 19 (G) Improve aviation infrastructure, including
20 implementation of instrument landing systems for



- 1 critical access airports, removing radar gap
2 coverage on the east side of Hawaii island;
- 3 (3) May use the facilities and services of any department,
4 board, commission, or agency of the State or counties;
- 5 (4) May sue and be sued;
- 6 (5) Shall have a seal and may alter the seal at its
7 pleasure;
- 8 (6) May make and execute contracts and all other
9 instruments necessary or convenient for the exercise
10 of its powers and functions under this chapter;
- 11 (7) Shall establish bylaws for its organization and
12 internal management;
- 13 (8) Shall establish bylaws for the adoption of rules and
14 shall adopt rules, through the administrator, to
15 effectuate this chapter;
- 16 (9) Shall adopt an annual budget for its operations and
17 maintenance program and its capital facilities
18 program;
- 19 (10) Shall appoint officers, agents, and employees through
20 the administrator, prescribe their duties and
21 qualifications, and fix their salaries;



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- 1 (11) May own, sell, lease, hold, clear, improve, and
2 rehabilitate real, personal, or mixed property, and
3 assign, exchange, transfer, convey, lease, sublease,
4 or encumber any airport, or any project, improvement,
5 or facility related thereto;

- 6 (12) Shall develop, construct, reconstruct, rehabilitate,
7 improve, alter, or repair, or provide for the
8 development, construction, reconstruction,
9 rehabilitation, improvement, alteration, or repair of,
10 any airport, or any project, improvement, or facility
11 related thereto, and designate a qualified person as
12 its agent for that purpose; and own, hold, assign,
13 transfer, convey, exchange, lease, sublease, or
14 encumber any airport or any project, improvement, or
15 facility related thereto;

- 16 (13) Shall arrange or initiate appropriate action for the
17 planning, replanning, opening, grading, relocating, or
18 closing of streets, roads, roadways, alleys,
19 easements, or other places; the furnishing of
20 facilities; the acquisition of property or property
21 rights; and the furnishing of property, development



1 rights, or services in connection with any airport, or
2 any project, improvement, or facility related thereto;
3 provided that these actions shall not conflict with
4 the requirements established pursuant to title 14 Code
5 of Federal Regulations, chapter I, subchapter I, as
6 amended;

7 (14) May grant options or renew any lease entered into by
8 it in connection with any project, on terms and
9 conditions as it deems advisable;

10 (15) May provide advisory, consultative, training, and
11 educational services; technical assistance; and
12 advice, to any person, either public or private, to
13 carry out the purposes of this chapter, and engage the
14 services of consultants on a contractual basis for
15 rendering professional and technical assistance and
16 advice;

17 (16) Shall procure insurance against any loss in connection
18 with its property and other assets and operations, in
19 the amounts and from the insurers as it deems
20 desirable, or provide for self-insurance;



- 1 (17) 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 airport
4 authority purposes;
- 5 (18) May pledge or assign all or any part of the moneys,
6 fees, rents, charges, or other revenues and proceeds
7 derived by the airport 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 airport authority;
- 11 (19) Shall impose, prescribe, and collect rates, rentals,
12 fees, or charges for the lease, use, and services of
13 its airport facilities at least sufficient to pay the
14 costs of operation, maintenance, and repair, if any,
15 and the required payments of the principal of, and
16 interest on, all bonds issued or assumed by the
17 airport authority and reserves therefor; provided that
18 the amounts charged shall be no less than comparable
19 rents charged at airports of similar size and capacity
20 in the United States;



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



- 1 (26) May take public and private property for use in
2 furthering any of the purposes of the airport
3 authority or as otherwise provided by law; provided
4 that all proceedings for condemnation shall be
5 conducted in accordance with chapter 101;
- 6 (27) May provide compensation, allowance, or other
7 assistance to any person for relocation or
8 displacement caused by the acquisition of land for
9 airport purposes;
- 10 (28) May hire or contract law enforcement personnel,
11 notwithstanding any other law to the contrary;
- 12 (29) May use funds appropriated to the airport authority to
13 fund services on a seven-days-a-week basis regardless
14 of any appropriation stating otherwise;
- 15 (30) Explore niche ideas for the expansion or improvement
16 of transportation in Hawaii, including the use of
17 seaplanes;
- 18 (31) Shall develop equitable electrical use policies,
19 including requiring the installation of electrical
20 submeters or other similar devices to accurately track
21 electrical use by airport tenants;



1 (32) Shall develop a strategic plan to address autonomous
2 aircraft systems; and

3 (33) May do any and all things necessary to carry out its
4 purposes and exercise the powers given to it in this
5 chapter.

6 (b) No county shall adopt any ordinance or rule that
7 interferes with or obstructs the operations of the airport
8 authority.

9 § -7. **Hawaii airport authority; powers and duties.** No
10 later than twenty days prior to the convening of each regular
11 session, the airport authority shall submit to the legislature
12 an annual report of its activities and finances."

13 SECTION 3. Section 261-21, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Except as provided in subsection (c), any person
16 violating this chapter, or any of the rules or orders issued
17 pursuant thereto and relating to:

- 18 (1) Safety measures, practices, or requirements;
- 19 (2) Airport security measures or requirements; or
- 20 (3) The licensing and regulation of persons engaged in
- 21 commercial activities at public airports,



1 duly adopted or served, shall be [~~guilty of a misdemeanor.~~]
2 subject to a civil penalty not to exceed \$500."

3 SECTION 4. Jurisdiction over aeronautics and airports,
4 including airport functions under the department of
5 transportation's airports division, shall be transferred to the
6 airport authority on July 1, 2018.

7 SECTION 5. At least twenty days prior to the convening of
8 the regular session of 2018, the department of transportation
9 shall submit to the legislature a report recommending statutes
10 that must be amended to transfer the authority and corresponding
11 employees to the airport authority pursuant to this Act.

12 SECTION 6. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so much
14 thereof as may be necessary for fiscal year 2017-2018 for the
15 implementation of the Hawaii airport authority.

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

18 SECTION 7. It is the legislature's intent that this Act
19 not jeopardize the receipt of any federal aid nor impair the
20 obligation of the State or any agency thereof to the holders of
21 any bond issued by the State or by any such agency, and to the



1 extent, and only to the extent, necessary to effectuate this
2 intent, the governor may modify the strict provisions of this
3 Act, but shall promptly report any such modification with
4 reasons therefor to the legislature at its next session
5 thereafter for review by the legislature.

6 SECTION 8. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun, before its effective date.

9 SECTION 9. This Act shall be liberally construed to
10 accomplish the purposes set forth herein. If any provision of
11 this Act, or the application thereof to any person or
12 circumstance, is held invalid, the invalidity shall not affect
13 the other provisions or applications of this Act that can be
14 given effect without the invalid provision or application, and
15 to this end the provisions of this Act are severable.

16 SECTION 10. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.



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1 SECTION 11. This Act shall take effect upon approval;
2 provided that section 2 shall take effect on July 1, 2018, and
3 section 6 shall take effect on July 1, 2017.

4

INTRODUCED BY:

[Signature]

*transmitted
Allen G. [Signature]*



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Report Title:

Airport Authority; Airports; Appropriation

Description:

Establishes the Hawaii airport authority. Transfers the administration of airports and the general aviation commuter portions of other airports to the Hawaii airport authority. Makes an appropriation.

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

