
A BILL FOR AN ACT

RELATING TO THE HAWAII COMMERCIAL HARBORS AUTHORITY.

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

1 SECTION 1. The legislature finds that the well-being of
2 the State is substantially dependent on the efficient
3 administration, development, management, and operation of its
4 commercial harbors and commercial maritime infrastructure. The
5 legislature also finds that responsibility for Hawaii's
6 commercial harbor planning, management, marketing, and capital
7 development functions is currently distributed among a number of
8 agencies, including the department of transportation's harbors
9 division, Hawaii tourism authority, department of budget and
10 finance, department of human resources development, board of
11 land and natural resources, and department of health (with
12 respect to environmental concerns), among others. Distributed
13 responsibility and involvement by multiple agencies, which
14 sometimes have conflicting goals and priorities, results in
15 inefficiency, delayed decision-making, and reduced
16 effectiveness. The legislature believes that coordinated
17 planning and development of the State's commercial harbors



1 system and infrastructure would be achieved more efficiently by
2 establishing and giving a separate state entity overall
3 jurisdiction and responsibility for maritime operations and the
4 State's commercial harbors.

5 The legislature further finds that the establishment of a
6 separate commercial harbors authority would assist in the
7 achievement of the following important statewide objectives:

- 8 (1) Maximizing the contribution of the State's commercial
9 harbors to Hawaii's economy;
- 10 (2) Ensuring dedicated expert commercial harbor
11 leadership, management continuity, and year-round
12 decision-making, consistent with industry best
13 practices;
- 14 (3) Improving administrative efficiency by streamlining
15 administrative processes;
- 16 (4) Accelerating the planning and implementation of the
17 state commercial harbors' capital improvement
18 programs;
- 19 (5) Increasing the financial flexibility and strength of
20 the State's commercial harbors;



- 1 (6) Increasing economic opportunities for the State, in
- 2 collaboration with the Hawaii tourism authority;
- 3 (7) Increasing responsiveness to consumer needs,
- 4 commercial opportunities, and economic demands; and
- 5 (8) Maximizing job creation within the State.

6 In addition, the management and administration of scarce and
7 valuable commercial harbor resources is most effectively served
8 by a separate commercial harbors authority.

9 The purpose of this Act is to establish the Hawaii
10 commercial harbors authority, which shall assume all of the
11 authority, powers, functions, duties, and responsibilities of
12 the department of transportation related to commercial maritime
13 and harbors, including responsibility for the development,
14 management, operation, and maintenance of the State's commercial
15 harbors, on and after the transfer completion date established
16 by the Hawaii commercial harbors authority pursuant to section
17 14(b) of this Act.

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



1 "CHAPTER

2 HAWAII COMMERCIAL HARBORS AUTHORITY

3 PART I. GENERAL PROVISIONS

4 § -1 Definitions. As used in this chapter:

5 "Board" means the board of directors of the Hawaii
6 commercial harbors authority.

7 "Chief executive officer" means the chief executive officer
8 of the Hawaii commercial harbors authority.

9 "Commercial harbor" shall have the same meaning as defined
10 in section 266-1.

11 "Commercial harbors authority" or "authority" means the
12 Hawaii commercial harbors authority established by this chapter.

13 "Harbor revenue" means all moneys paid into the harbor
14 special fund pursuant to section 266-19.

15 "Maritime facilities" means commercial harbor and
16 waterfront improvements, ports, docks, wharves, piers, quays,
17 bulkheads, and landings belonging to the State.

18 § -2 Harbors authority; establishment; board; members;
19 chief executive officer. (a) There is established the Hawaii
20 commercial harbors authority to:



- 1 (1) Develop and implement management structures, policies,
2 and procedures based on commercial harbors industry
3 best practices;
- 4 (2) Efficiently develop, manage, operate, and maintain the
5 State's commercial harbors and maritime facilities;
6 and
- 7 (3) Administer the provisions of chapters 102, 266, and
8 268 that are applicable to commercial harbors and
9 maritime facilities.

10 The authority shall be a body politic and corporate and an
11 instrumentality and agency of the State, placed within the
12 department of transportation for administrative purposes only,
13 and shall enjoy the same sovereign immunity available to the
14 State. The authority shall not be subject to supervision by the
15 department of transportation or its director. Further, section
16 26-35(a)(1), (4), (5), and (6) shall not apply to the authority.

17 (b) The powers of the authority shall be vested in and
18 exercised by a board of directors, which shall consist of ten
19 voting members, who shall be appointed by the governor; provided
20 that three members shall be selected from a list of persons
21 nominated by the speaker of the house of representatives, and



1 three members shall be selected from a list of persons nominated
2 by the president of the senate; and provided further that the
3 counties of Hawaii, Kauai, and Maui, and the city and county of
4 Honolulu shall each be represented by at least one board member
5 who is a resident of the respective county. All members shall
6 be appointed for terms of four years; provided that the governor
7 shall stagger the initial terms pursuant to section 26-34(a).

8 (c) Members shall have relevant business and management
9 experience, including experience in one or more of the following
10 disciplines:

- 11 (1) Commercial maritime operations;
- 12 (2) Maritime law;
- 13 (3) Non-maritime harbor business;
- 14 (4) Commercial development
- 15 (5) Construction management;
- 16 (6) Financial planning;
- 17 (7) Budgeting;
- 18 (8) Hospitality;
- 19 (9) Tourism;
- 20 (10) Marketing; and
- 21 (11) Cultural traditions and practices of native Hawaiians.



1 It is the intent of the legislature that there shall be, as
2 far as practicable, a wide cross-section of these disciplines
3 represented by the board.

4 (d) The governor may appoint up to two members without
5 regard to the requirement in section 78-1(b) that appointive
6 officers be residents of the State at the time of their
7 appointment; provided that no more than two nonresidents shall
8 serve as members of the board at any time.

9 (e) Pursuant to section 26-34(a) and (b), all members of
10 the board shall continue in office until their respective
11 successors have been appointed; provided that no member shall
12 serve more than eight consecutive years.

13 (f) No board member appointed under this section shall be
14 an officer or employee of the State or a county.

15 (g) Each board member shall serve without pay and shall be
16 reimbursed for necessary out-of-pocket expenses incurred while
17 attending meetings and otherwise discharging the member's board-
18 related responsibilities.

19 (h) The authority shall be headed by a single executive to
20 be known as the chief executive officer of the Hawaii commercial
21 harbors authority, who shall:



- 1 (1) Not be a member of the board;
- 2 (2) Be exempt from chapters 76 and 89; and
- 3 (3) Receive a salary fixed by the board.
- 4 (i) The chief executive officer:
 - 5 (1) Shall be selected based on criteria approved by the
 - 6 board, including experience in commercial harbor
 - 7 management at an executive level at a large-size or
 - 8 medium-size commercial harbor within the United
 - 9 States, management of large-scale capital programs,
 - 10 and domestic and international harbor and maritime
 - 11 development;
 - 12 (2) Shall be appointed by an affirmative vote of not less
 - 13 than six members of the board;
 - 14 (3) Shall be employed subject to a formal contract, the
 - 15 terms of which shall be approved by the board;
 - 16 provided that the terms shall include provisions for
 - 17 the removal of the chief executive officer whether
 - 18 with or without cause;
 - 19 (4) May be removed from office only by a vote of not less
 - 20 than six members of the board; provided that the basis



- 1 for removal shall be consistent with the terms of the
2 chief executive officer's employment contract;
- 3 (5) Shall have the powers as described in this chapter and
4 the provisions of chapters 102, 266, and 268 that are
5 applicable to commercial harbors and maritime
6 facilities, as may be delegated by the board;
- 7 (6) Except when excused by the board, shall attend all
8 meetings of the board, keep a record of the
9 proceedings, and maintain and be the custodian of the
10 official seal of the authority and all books, records,
11 documents, and papers filed with the authority;
- 12 (7) Shall direct and supervise the authority's
13 administrative and operational affairs in accordance
14 with the directives of the board;
- 15 (8) Shall approve all accounts for salaries and allowable
16 expenses of the authority;
- 17 (9) Shall serve as chief procurement officer of the
18 authority; and
- 19 (10) Shall do all things necessary, as directed by the
20 board, to carry out the powers and duties conferred
21 upon the authority by this chapter and the provisions



1 of chapters 102, 266, and 268 that are applicable to
2 commercial harbors and maritime facilities.

3 (j) Upon the vacancy of the position of the chief
4 executive officer, the board of directors shall designate a
5 deputy executive officer or other employee of the authority to
6 serve as the chief executive officer of the authority until the
7 vacancy is filled by the board. The interim chief executive
8 officer shall have all the powers and responsibilities and
9 receive the salary of the chief executive officer.

10 **§ -3 Powers; generally.** (a) The Hawaii commercial
11 harbors authority, by and through its board of directors:

12 (1) Shall exercise power and control over all commercial
13 harbors and maritime facilities that the authority is
14 responsible for managing, operating, or controlling
15 under this chapter and the provisions of chapters 102,
16 266, and 268 that are applicable to commercial harbors
17 and maritime facilities;

18 (2) Shall provide, as appropriate, for the arrival,
19 departure, mooring, and servicing of vessels, and the
20 loading and unloading of passengers and cargo at all



- 1 commercial harbors and maritime facilities under the
2 control of the authority;
- 3 (3) Shall establish performance targets and performance
4 standards for all state commercial harbors and marine
5 facilities to achieve the highest levels of customer
6 service;
- 7 (4) Shall ensure that appropriate mission statements,
8 business plans, minimum development standards, and
9 strategic goals are established and that progress
10 towards their accomplishment is regularly assessed and
11 reported;
- 12 (5) Shall develop an organization and management structure
13 to best accomplish the goals of the Hawaii commercial
14 harbors system and the authority;
- 15 (6) Shall have an official seal and may alter the official
16 seal at its pleasure;
- 17 (7) May make, execute, or assume contracts, leases, and
18 all other instruments necessary or convenient for the
19 exercise of its powers and functions under this
20 chapter and the provisions of chapters 102, 266, and



- 1 268 that are applicable to commercial harbors and
2 maritime facilities;
- 3 (8) Shall establish bylaws for its organization and
4 internal management;
- 5 (9) Shall adopt rules pursuant to chapter 91 as necessary
6 to implement this chapter and the provisions of
7 chapters 102, 266, and 268 that are applicable to
8 commercial harbors and maritime facilities;
- 9 (10) Shall prepare and adopt the authority's operating and
10 capital budgets;
- 11 (11) May own, purchase, lease, exchange, or otherwise
12 acquire property, whether real, personal, or mixed,
13 tangible or intangible, and any interest therein, in
14 the name of the authority, and may assign, exchange,
15 transfer, convey, lease, sublease, or encumber the
16 same or any project, improvement, or facility related
17 thereto; provided that the lands to which the
18 authority holds title shall not be subject to chapter
19 171; provided further that any sale, gift, or exchange
20 of real property shall be subject to the terms,
21 conditions, and restrictions applicable to the sale,



1 gift, or exchange of public lands in section 171-50
2 and 171-64.7; and provided further that any lease,
3 sublease permit, or other encumbrance for any real
4 property shall be issued in accordance with
5 administrative rules adopted by the authority pursuant
6 to chapter 91;

7 (12) May procure insurance against any loss in connection
8 with its property and other assets and operations, in
9 amounts and from insurers as it deems desirable, or
10 provide for self-insurance;

11 (13) May accept and receive gifts or grants in any form
12 from any person, public entity, or source; provided
13 that the grants and gifts shall be used for harbors
14 authority purposes;

15 (14) Shall take all actions necessary under emergencies
16 declared by the governor;

17 (15) Shall fix, impose, prescribe, and collect rates,
18 rentals, fees, or charges for the lease, use, and
19 services of its maritime facilities at least
20 sufficient to pay the costs of operation, maintenance,
21 and repair, if any, and the required payments of the



1 principal of and interest on all bonds, notes, or
2 other obligations issued or assumed by the authority
3 and reserves therefor; provided that the rates,
4 rentals, fees, or charges are established at an open
5 meeting subject to the requirements of chapter 92;

6 (16) May allot any and all commercial harbor and maritime
7 facilities revenue and issue revenue bonds, refunding
8 revenue bonds, special facility revenue bonds, bond
9 anticipation notes, and other lawfully authorized
10 obligations of the State in its name and secured by
11 the revenue, or user taxes, or any combination of
12 both, of an undertaking or loan program pursuant to
13 chapter 39, but not in excess of the principal amounts
14 as are necessary for its purposes;

15 (17) May invest and secure its moneys;

16 (18) Shall establish and maintain an appropriate system of
17 accounts for the authority; and

18 (19) May do any and all things necessary to exercise the
19 powers and perform the duties conferred upon the
20 authority by this chapter and the provisions of



1 chapters 102, 266, and 268 that are applicable to
2 commercial harbors and maritime facilities.

3 (b) The authority shall not be subject to chapters 36, 37,
4 38, and 40, except for section 36-29 and as otherwise provided
5 in this chapter and chapters 266 and 268.

6 (c) The authority may sue and be sued in its corporate
7 name. Notwithstanding any other law to the contrary, all claims
8 arising out of the acts or omissions of the authority or the
9 members of its board, its officers, or its employees, including
10 claims permitted against the State under chapter 661, part I,
11 and claims for torts permitted against the State under chapter
12 662, may be brought only pursuant to this section and only
13 against the authority. However, the authority shall be subject
14 to suit only in the manner provided by law for suits against the
15 State, including section 661-11. All defenses available to the
16 State, as well as all limitations on actions against the State,
17 shall be applicable to the authority.

18 The board of directors, upon the advice of its attorney,
19 may arbitrate, compromise, or settle any claim, action, or suit
20 brought against the authority pursuant to this section. Any
21 claim compromised or settled under this section shall be payable



1 solely from the moneys and property of the authority and shall
2 not constitute a general obligation of the State or be secured
3 directly or indirectly by the full faith and credit of the State
4 or the general credit of the State or by any revenue or taxes of
5 the State. Nothing in this section shall preclude the board of
6 directors from requesting legislative appropriations to fund the
7 settlement of any claim or judgment against the authority or its
8 officers, employees, or agents.

9 Rights and remedies conferred by this section shall not be
10 construed to authorize any other claim, suit, or action against
11 the State. In addition, a judgment, compromise, or settlement
12 in an action brought against the authority under this section
13 shall constitute a complete bar to any action brought by the
14 claimant, by reason of the same subject matter, against the
15 State or an officer or employee of the authority.

16 (d) The authority shall be a "jurisdiction" and an
17 "appointing authority" under chapter 76, and an "appointing
18 authority" and an "appropriate authority" for those of its
19 officers and employees who are excluded employees under chapter
20 89C. In addition to its chief executive officer, the authority
21 may employ executive officers appointed by the chief executive



1 officer who are qualified to fill positions established in the
2 bylaws of the authority adopted by the board of directors, to
3 perform functions and exercise powers assigned by the bylaws or
4 delegated by the board or the chief executive officer. The
5 other executive officers of the authority and up
6 to additional specially qualified employees appointed by
7 the chief executive officer shall be exempt from chapters 76 and
8 89. All other persons employed by the authority shall be
9 subject to chapters 76 and 89, and rules adopted to implement
10 those provisions, unless expressly exempted from the civil
11 service under chapter 76 or excluded from collective bargaining
12 under chapter 89. The officers and personnel of the authority
13 shall be included in all benefit programs applicable to officers
14 and employees of the State.

15 (e) The authority and its corporate existence shall
16 continue until terminated by law; provided that no termination
17 shall take effect as long as bonds or other obligations issued
18 or assumed by the authority are outstanding, unless adequate
19 provision has been made for the payment or satisfaction thereof.
20 Upon termination of the existence of the authority, all of the



1 rights and properties of the authority then remaining shall pass
2 to and vest in the State in the manner prescribed by law.

3 (f) The authority shall be subject to chapter 103D;
4 provided that the chief executive officer shall serve as chief
5 procurement officer pursuant to sections -2(i)(9) and
6 103D-203.

7 **PART II. BUDGET AND FINANCE**

8 **§ -4 Exemptions.** The harbor special fund shall be
9 exempt from chapters 36, 37, and 40.

10 **§ -5 Fiscal provisions.** (a) The authority's board of
11 directors shall establish guidelines for preparing the
12 authority's annual operating and capital budget proposals the
13 guidelines shall take into account anticipated receipts,
14 surpluses, reserves, and funds from any other source, on deposit
15 in or available for deposit into the harbor special fund or any
16 other special or revolving fund that the legislature may
17 establish for the authority.

18 (b) The authority shall submit by of every year
19 its biennium and supplemental operating and capital budget
20 proposals to the department of transportation, which shall
21 transmit those budget proposals to the governor.



1 (c) Along with its budget proposals, the authority shall
2 provide an annual report of the income to and the expenditures
3 from the harbor special fund and any other special or revolving
4 fund administered by the authority. The authority shall provide
5 a copy of its annual report to the legislature at least twenty
6 days prior to the convening of each regular session.

7 (d) The supporting documents for each budget proposal
8 shall include the annual report, but need not include any other
9 information, except when state general funds are requested.

10 (e) Notwithstanding sections 37-71 and 37-72, the governor
11 shall include in the executive budget proposals separately for
12 both the authority's operating and capital budget proposals, one
13 lump sum for each means or source of funds in the amounts
14 specified in the budget proposals transmitted to the governor by
15 the department of transportation pursuant to subsection (b).

16 (f) The legislature shall appropriate one lump sum for
17 each means or source of funding for the authority's operating
18 budget and for the authority's capital budget.

19 **§ -6 Budget oversight.** The authority's operating and
20 capital budgets shall not be subject to review or approval by



1 the governor or any agency of the executive branch, except where
2 state general funds are requested.

3 **§ -7 Accounts; depositories.** (a) Appropriations for
4 the authority shall not be subject to any allotment system or
5 requirements. The director of finance shall notify the
6 authority and the comptroller that all of the appropriations for
7 the authority for the fiscal year have been allotted and are
8 available for expenditure as soon as possible, and in no event
9 more than three business days after the general or supplemental
10 appropriations act is effective.

11 (b) Moneys in the harbor special fund may be deposited in
12 depositories other than the state treasury; provided that the
13 authority consults with the director of finance before selecting
14 a depository for the authority's funds, and submits copies of
15 annual statements from each of the depositories in which the
16 moneys from the funds are deposited.

17 **§ -8 Expenditures in excess of appropriations.** If in
18 any fiscal year, the amount of revenues deposited into the
19 harbor special fund exceeds the amount appropriated from that
20 fund for that year, the board of directors of the authority may
21 approve expenditures in excess of the amount appropriated, up to



1 the amount by which revenues for that fund exceed the
2 appropriations from that fund for a fiscal year.

3 **§ -9 Issuance of bonds.** On an annual basis, and upon
4 request of the authority, the legislature shall authorize one
5 lump sum for each means or source of funds for each of the
6 following types of bonds to be issued by the authority: revenue
7 bonds, refunding revenue bonds, and special facility revenue
8 bonds.

9 **§ -10 Audits.** The auditor shall conduct management and
10 financial audits of the authority for fiscal year 2024 and every
11 second year thereafter."

12 SECTION 3. Section 26-19, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§26-19 Department of transportation.** The department of
15 transportation shall be headed by a single executive to be known
16 as the director of transportation. The department shall
17 establish, maintain, and operate transportation facilities of
18 the State, including highways, airports, [~~harbors,~~] and such
19 other transportation facilities and activities, other than
20 commercial harbors and commercial maritime activities, as may be
21 authorized by law.



1 The department shall plan, develop, promote, and coordinate
2 various transportation systems management programs that shall
3 include, but not be limited to, alternate work and school hours
4 programs, bicycling programs, and ridesharing programs.

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

13 SECTION 4. Section 28-8.3, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By amending subsection (a) to read:

16 "(a) No department of the State other than the attorney
17 general may employ or retain any attorney, by contract or
18 otherwise, for the purpose of representing the State or the
19 department in any litigation, rendering legal counsel to the
20 department, or drafting legal documents for the department;



1 provided that the foregoing provision shall not apply to the
2 employment or retention of attorneys:

3 (1) By the public utilities commission, the labor and
4 industrial relations appeals board, and the Hawaii
5 labor relations board;

6 (2) By any court or judicial or legislative office of the
7 State; provided that if the attorney general is
8 requested to provide representation to a court or
9 judicial office by the chief justice or the chief
10 justice's designee, or to a legislative office by the
11 speaker of the house of representatives and the
12 president of the senate jointly, and the attorney
13 general declines to provide such representation on the
14 grounds of conflict of interest, the attorney general
15 shall retain an attorney for the court, judicial, or
16 legislative office, subject to approval by the court,
17 judicial, or legislative office;

18 (3) By the legislative reference bureau;

19 (4) By any compilation commission that may be constituted
20 from time to time;



- 1 (5) By the real estate commission for any action involving
- 2 the real estate recovery fund;
- 3 (6) By the contractors license board for any action
- 4 involving the contractors recovery fund;
- 5 (7) By the office of Hawaiian affairs;
- 6 (8) By the department of commerce and consumer affairs for
- 7 the enforcement of violations of chapters 480 and
- 8 485A;
- 9 (9) As grand jury counsel;
- 10 (10) By the Hawaii health systems corporation, or its
- 11 regional system boards, or any of their facilities;
- 12 (11) By the auditor;
- 13 (12) By the office of ombudsman;
- 14 (13) By the insurance division;
- 15 (14) By the University of Hawaii;
- 16 (15) By the Kahoolawe island reserve commission;
- 17 (16) By the division of consumer advocacy;
- 18 (17) By the office of elections;
- 19 (18) By the campaign spending commission;
- 20 (19) By the Hawaii tourism authority, as provided in
- 21 section 201B-2.5;



- 1 (20) By the division of financial institutions;
- 2 (21) By the office of information practices; [~~or~~]
- 3 (22) By the Hawaii commercial harbors authority; or
- 4 [~~(22)~~] (23) By a department, if the attorney general, for
- 5 reasons deemed by the attorney general to be good and
- 6 sufficient, declines to employ or retain an attorney
- 7 for a department; provided that the governor waives
- 8 the provision of this section."

9 2. By amending subsection (c) to read:

10 "(c) Every attorney employed by any department on a full-

11 time basis, except an attorney employed by the public utilities

12 commission, the labor and industrial relations appeals board,

13 the Hawaii labor relations board, the office of Hawaiian

14 affairs, the Hawaii health systems corporation or its regional

15 system boards, the department of commerce and consumer affairs

16 in prosecution of consumer complaints, insurance division, the

17 division of consumer advocacy, the University of Hawaii, the

18 Hawaii tourism authority as provided in section 201B-2.5, the

19 office of information practices, the Hawaii commercial harbors

20 authority, or as grand jury counsel, shall be a deputy attorney

21 general."



1 SECTION 5. Section 41D-2, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Any provision in this section to the contrary
4 notwithstanding, the Hawaii commercial harbors authority, the
5 University of Hawaii (as to casualty insurance risks only), the
6 Research Corporation of the University of Hawaii (as to casualty
7 insurance risks only), the public health facilities of the
8 department of health (with respect to medical malpractice risks
9 only), and the Hawaii health systems corporation and its
10 regional system boards shall be exempt from the requirements of
11 this chapter."

12 SECTION 6. Section 76-11, Hawaii Revised Statutes, is
13 amended by amending the definition of "jurisdiction" to read as
14 follows:

15 ""Jurisdiction" means the State, the city and county of
16 Honolulu, the county of Hawaii, the county of Maui, the county
17 of Kauai, the judiciary, the department of education, the
18 University of Hawaii, the Hawaii commercial harbors authority,
19 and the Hawaii health systems corporation."

20 SECTION 7. Section 76-16, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 "(b) The civil service to which this chapter applies shall
2 comprise all positions in the State now existing or hereafter
3 established and embrace all personal services performed for the
4 State, except the following:

5 (1) Commissioned and enlisted personnel of the Hawaii
6 National Guard as such, and positions in the Hawaii
7 National Guard that are required by state or federal
8 laws or regulations or orders of the National Guard to
9 be filled from those commissioned or enlisted
10 personnel;

11 (2) Positions filled by persons employed by contract where
12 the director of human resources development has
13 certified that the service is special or unique or is
14 essential to the public interest and that, because of
15 circumstances surrounding its fulfillment, personnel
16 to perform the service cannot be obtained through
17 normal civil service recruitment procedures. Any such
18 contract may be for any period not exceeding one year;

19 (3) Positions that must be filled without delay to comply
20 with a court order or decree if the director
21 determines that recruitment through normal recruitment



- 1 civil service procedures would result in delay or
2 noncompliance, such as the Felix-Cayetano consent
3 decree;
- 4 (4) Positions filled by the legislature or by either house
5 or any committee thereof;
- 6 (5) Employees in the office of the governor and office of
7 the lieutenant governor, and household employees at
8 Washington Place;
- 9 (6) Positions filled by popular vote;
- 10 (7) Department heads, officers, and members of any board,
11 commission, or other state agency whose appointments
12 are made by the governor or are required by law to be
13 confirmed by the senate;
- 14 (8) Judges, referees, receivers, masters, jurors, notaries
15 public, land court examiners, court commissioners, and
16 attorneys appointed by a state court for a special
17 temporary service;
- 18 (9) One bailiff for the chief justice of the supreme court
19 who shall have the powers and duties of a court
20 officer and bailiff under section 606-14; one
21 secretary or clerk for each justice of the supreme



1 court, each judge of the intermediate appellate court,
2 and each judge of the circuit court; one secretary for
3 the judicial council; one deputy administrative
4 director of the courts; three law clerks for the chief
5 justice of the supreme court, two law clerks for each
6 associate justice of the supreme court and each judge
7 of the intermediate appellate court, one law clerk for
8 each judge of the circuit court, two additional law
9 clerks for the civil administrative judge of the
10 circuit court of the first circuit, two additional law
11 clerks for the criminal administrative judge of the
12 circuit court of the first circuit, one additional law
13 clerk for the senior judge of the family court of the
14 first circuit, two additional law clerks for the civil
15 motions judge of the circuit court of the first
16 circuit, two additional law clerks for the criminal
17 motions judge of the circuit court of the first
18 circuit, and two law clerks for the administrative
19 judge of the district court of the first circuit; and
20 one private secretary for the administrative director
21 of the courts, the deputy administrative director of



1 the courts, each department head, each deputy or first
2 assistant, and each additional deputy, or assistant
3 deputy, or assistant defined in paragraph (16);

4 (10) First deputy and deputy attorneys general, the
5 administrative services manager of the department of
6 the attorney general, one secretary for the
7 administrative services manager, an administrator and
8 any support staff for the criminal and juvenile
9 justice resources coordination functions, and law
10 clerks;

11 (11) (A) Teachers, principals, vice-principals, complex
12 area superintendents, deputy and assistant
13 superintendents, other certificated personnel,
14 not more than twenty noncertificated
15 administrative, professional, and technical
16 personnel not engaged in instructional work;

17 (B) Effective July 1, 2003, teaching assistants,
18 educational assistants, bilingual/bicultural
19 school-home assistants, school psychologists,
20 psychological examiners, speech pathologists,
21 athletic health care trainers, alternative school



1 work study assistants, alternative school
2 educational/supportive services specialists,
3 alternative school project coordinators, and
4 communications aides in the department of
5 education;

6 (C) The special assistant to the state librarian and
7 one secretary for the special assistant to the
8 state librarian; and

9 (D) Members of the faculty of the University of
10 Hawaii, including research workers, extension
11 agents, personnel engaged in instructional work,
12 and administrative, professional, and technical
13 personnel of the university;

14 (12) Employees engaged in special, research, or
15 demonstration projects approved by the governor;

16 (13) (A) Positions filled by inmates, patients of state
17 institutions, persons with severe physical or
18 mental disabilities participating in the work
19 experience training programs;



- 1 (B) Positions filled with students in accordance with
2 guidelines for established state employment
3 programs; and
- 4 (C) Positions that provide work experience training
5 or temporary public service employment that are
6 filled by persons entering the workforce or
7 persons transitioning into other careers under
8 programs such as the federal Workforce Investment
9 Act of 1998, as amended, or the Senior Community
10 Service Employment Program of the Employment and
11 Training Administration of the United States
12 Department of Labor, or under other similar state
13 programs;
- 14 (14) A custodian or guide at Iolani Palace, the Royal
15 Mausoleum, and Hulihee Palace;
- 16 (15) Positions filled by persons employed on a fee,
17 contract, or piecework basis, who may lawfully perform
18 their duties concurrently with their private business
19 or profession or other private employment and whose
20 duties require only a portion of their time, if it is



1 impracticable to ascertain or anticipate the portion
2 of time to be devoted to the service of the State;
3 (16) Positions of first deputies or first assistants of
4 each department head appointed under or in the manner
5 provided in section 6, article V, of the Hawaii State
6 Constitution; [~~three~~] two additional deputies or
7 assistants either in charge of the highways [~~7~~
8 ~~harbors~~] and airports divisions or other functions
9 within the department of transportation as may be
10 assigned by the director of transportation, with the
11 approval of the governor; four additional deputies in
12 the department of health, each in charge of one of the
13 following: behavioral health, environmental health,
14 hospitals, and health resources administration,
15 including other functions within the department as may
16 be assigned by the director of health, with the
17 approval of the governor; an administrative assistant
18 to the state librarian; and an administrative
19 assistant to the superintendent of education;
20 (17) Positions specifically exempted from this part by any
21 other law; provided that:



- 1 (A) Any exemption created after July 1, 2014, shall
2 expire three years after its enactment unless
3 affirmatively extended by an act of the
4 legislature; and
- 5 (B) All of the positions defined by paragraph (9)
6 shall be included in the position classification
7 plan;
- 8 (18) Positions in the state foster grandparent program and
9 positions for temporary employment of senior citizens
10 in occupations in which there is a severe personnel
11 shortage or in special projects;
- 12 (19) Household employees at the official residence of the
13 president of the University of Hawaii;
- 14 (20) Employees in the department of education engaged in
15 the supervision of students during meal periods in the
16 distribution, collection, and counting of meal
17 tickets, and in the cleaning of classrooms after
18 school hours on a less than half-time basis;
- 19 (21) Employees hired under the tenant hire program of the
20 Hawaii public housing authority; provided that not
21 more than twenty-six per cent of the authority's



- 1 workforce in any housing project maintained or
2 operated by the authority shall be hired under the
3 tenant hire program;
- 4 (22) Positions of the federally funded expanded food and
5 nutrition program of the University of Hawaii that
6 require the hiring of nutrition program assistants who
7 live in the areas they serve;
- 8 (23) Positions filled by persons with severe disabilities
9 who are certified by the state vocational
10 rehabilitation office that they are able to perform
11 safely the duties of the positions;
- 12 (24) The sheriff;
- 13 (25) A gender and other fairness coordinator hired by the
14 judiciary;
- 15 (26) Positions in the Hawaii National Guard youth and adult
16 education programs;
- 17 (27) In the state energy office in the department of
18 business, economic development, and tourism, all
19 energy program managers, energy program specialists,
20 energy program assistants, and energy analysts; [~~and~~]



- 1 (28) Administrative appeals hearing officers in the
- 2 department of human services[-]; and
- 3 (29) The chief executive officer of the Hawaii commercial
- 4 harbors authority, all other executive officers that
- 5 the chief executive officer may appoint pursuant to
- 6 section -3(d), and positions that the chief
- 7 executive officer is authorized to fill by appointing
- 8 specially qualified employees pursuant to
- 9 section -3(d).

10 The director shall determine the applicability of this
 11 section to specific positions.

12 Nothing in this section shall be deemed to affect the civil
 13 service status of any incumbent as it existed on July 1, 1955."

14 SECTION 8. Section 89C-1.5, Hawaii Revised Statutes, is
 15 amended by amending the definition of "appropriate authority" to
 16 read as follows:

17 "Appropriate authority" means the governor, the respective
 18 mayors, the chief justice of the supreme court, the board of
 19 education, the board of regents, the state public charter school
 20 commission, the Hawaii health systems corporation board, the
 21 auditor, the ombudsman, the board of directors of the Hawaii



1 commercial harbors authority, and the director of the
2 legislative reference bureau. These individuals or boards may
3 make adjustments for their respective excluded employees."

4 SECTION 9. Section 103D-203, Hawaii Revised Statutes, is
5 amended as follow:

6 1. By amending subsection (a) to read as follows:

7 "(a) The chief procurement officer for each of the
8 following state entities shall be:

9 (1) The judiciary--the administrative director of the
10 courts;

11 (2) The senate--the president of the senate;

12 (3) The house of representatives--the speaker of the house
13 of representatives;

14 (4) The office of Hawaiian affairs--the chairperson of the
15 board;

16 (5) The University of Hawaii--the president of the
17 University of Hawaii;

18 (6) The department of education, excluding the Hawaii
19 public library system--the superintendent of
20 education;



1 (7) The Hawaii health systems corporation--the chief
2 executive officer of the Hawaii health systems
3 corporation; [~~and~~]

4 (8) The Hawaii commercial harbors authority--the chief
5 executive officer of the Hawaii commercial harbors
6 authority; and

7 ~~[(8)]~~ (9) The remaining departments of the executive branch
8 of the State and all governmental bodies
9 administratively attached to them--the administrator
10 of the state procurement office of the department of
11 accounting and general services."

12 2. By amending subsection (c) to read as follows:

13 "(c) For purposes of applying this chapter to the
14 judiciary, houses of the legislature, office of Hawaiian
15 affairs, University of Hawaii, department of education, Hawaii
16 commercial harbors authority, remaining departments of the
17 executive branch and all governmental bodies administratively
18 attached to them, and the several counties, unless otherwise
19 expressly provided, "State" shall mean "judiciary", "state
20 senate", "state house of representatives", "office of Hawaiian
21 affairs", "University of Hawaii", "department of education",



1 "Hawaii commercial harbors authority", "executive branch",
2 "county", "board of water supply" or "department of water
3 supply", and "semi-autonomous public transit agency",
4 respectively."

5 SECTION 10. Section 171-2, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§171-2 Definition of public lands.** "Public lands" means
8 all lands or interest therein in the State classed as government
9 or crown lands previous to August 15, 1895, or acquired or
10 reserved by the government upon or subsequent to that date by
11 purchase, exchange, escheat, or the exercise of the right of
12 eminent domain, or in any other manner; including lands accreted
13 after May 20, 2003, and not otherwise awarded, submerged lands,
14 and lands beneath tidal waters that are suitable for
15 reclamation, together with reclaimed lands that have been given
16 the status of public lands under this chapter, except:

- 17 (1) Lands designated in section 203 of the Hawaiian Homes
18 Commission Act, 1920, as amended;
- 19 (2) Lands set aside pursuant to law for the use of the
20 United States;
- 21 (3) Lands being used for roads and streets;



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- 1 (4) Lands to which the United States relinquished the
2 absolute fee and ownership under section 91 of the
3 Hawaiian Organic Act prior to the admission of Hawaii
4 as a state of the United States unless subsequently
5 placed under the control of the board of land and
6 natural resources and given the status of public lands
7 in accordance with the state constitution, the
8 Hawaiian Homes Commission Act, 1920, as amended, or
9 other laws;
- 10 (5) Lands to which the University of Hawaii holds title;
- 11 (6) Lands to which the Hawaii housing finance and
12 development corporation in its corporate capacity
13 holds title;
- 14 (7) Lands to which the Hawaii community development
15 authority in its corporate capacity holds title;
- 16 (8) Lands to which the department of agriculture holds
17 title by way of foreclosure, voluntary surrender, or
18 otherwise, to recover moneys loaned or to recover
19 debts otherwise owed the department under chapter 167;
- 20 (9) Lands that are set aside by the governor to the Aloha
21 Tower development corporation; lands leased to the



1 Aloha Tower development corporation by any department
2 or agency of the State; or lands to which the Aloha
3 Tower development corporation holds title in its
4 corporate capacity;

5 (10) Lands that are set aside by the governor to the
6 agribusiness development corporation; lands leased to
7 the agribusiness development corporation by any
8 department or agency of the State; or lands to which
9 the agribusiness development corporation in its
10 corporate capacity holds title;

11 (11) Lands to which the Hawaii technology development
12 corporation in its corporate capacity holds title;
13 [~~and~~]

14 (12) Lands to which the department of education holds
15 title; and

16 (13) Lands to which the Hawaii commercial harbors authority
17 holds title;

18 provided that, except as otherwise limited under federal law and
19 except for state land used as an airport as defined in section
20 262-1, public lands shall include the air rights over any
21 portion of state land upon which a county mass transit project



1 is developed after July 11, 2005[-]; and provided further that
2 lands to which the Hawaii commercial harbors authority holds
3 title shall be considered "public lands" for the purpose of
4 accounting of all receipts from lands that are described in
5 section 5(f) of the Admission Act, Public Law 86-3, for the
6 prior fiscal year, pursuant to section 5 of Act 178, Session
7 Laws of Hawaii 2006."

8 SECTION 11. Section 266-17, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) The [~~department of transportation~~] Hawaii commercial
11 harbors authority shall adjust, fix, and enforce the rates
12 assessable and chargeable by it in respect to dockage, wharfage,
13 demurrage, and other rates and fees pertaining to harbors,
14 wharves, and properties managed and operated by it so as to
15 produce from the rates and fees, in respect to all harbors,
16 wharves, and other properties, except those that are principally
17 used for recreation or the landing of fish, revenues sufficient
18 to:

19 (1) Pay when due the principal of and interest on all
20 bonds and other obligations for the payment of which
21 the revenue is or has been pledged, charged, or



1 otherwise encumbered, or which are otherwise payable
2 from the revenue or from a special fund maintained or
3 to be maintained from the revenue, including reserves
4 therefor, and to maintain the special fund in an
5 amount at least sufficient to pay when due all bonds
6 or other revenue obligations and interest thereon,
7 which are payable from the special fund, including
8 reserves therefor;

9 (2) Provide for all expenses of operation and maintenance
10 of the properties, including reserves therefor, and
11 the expenses of the department in connection with
12 operation and maintenance; and

13 (3) Reimburse the general fund of the State for all bond
14 requirements for general obligation bonds which are or
15 have been issued for harbor or wharf improvements, or
16 to refund any of the improvement bonds, excluding
17 bonds, the proceeds of which were or are to be
18 expended for improvements which are or will be neither
19 revenue producing nor connected in their use directly
20 with revenue producing properties."



1 SECTION 12. On and after the transfer completion date
2 established by the Hawaii commercial harbors authority in
3 section 14(b) of this Act, and until the revisor of statutes
4 makes the amendments to applicable provisions in chapters 102,
5 266, and 268, Hawaii Revised Statutes, described in this
6 section, every reference to the department of transportation or
7 "department" or its role in awarding concessions in chapters
8 102, 266, and 268, Hawaii Revised Statutes, shall be a reference
9 to the Hawaii commercial harbors authority, and every reference
10 to the director of transportation or "director" or the
11 director's role in awarding concessions in chapters 102, 266,
12 and 268, Hawaii Revised Statutes, shall be a reference to the
13 chief executive officer of the Hawaii commercial harbors
14 authority. After the transfer completion date, but no later
15 than when the subsequent supplements to the Hawaii Revised
16 Statutes are prepared, the revisor of statutes shall make
17 appropriate changes, including, without limitation, substituting
18 the phrase "chief executive officer" for the terms "director" or
19 "director of transportation", the term "Hawaii commercial
20 harbors authority" for the term "department of transportation",
21 and the term "authority" for the term "department."



1 SECTION 13. The Hawaii commercial harbors authority shall
2 succeed to the jurisdiction, powers, and responsibilities of the
3 department of transportation over commercial maritime
4 operations, commercial harbors, and commercial maritime
5 facilities, including all of the functions relating to
6 commercial harbors and commercial maritime operations performed
7 by the department and its harbors division, on the transfer
8 completion date published by the Hawaii commercial harbors
9 authority pursuant to section 14(b) of this Act, which date
10 shall be no later than December 31, 2022.

11 Thereafter, to the extent that the Hawaii commercial
12 harbors authority is authorized under this Act to exercise
13 powers and duties that are also granted to other departments,
14 offices, or boards of the State, with respect to commercial
15 harbors, commercial maritime facilities, and commercial maritime
16 operations, the Hawaii commercial harbors authority shall
17 exclusively exercise those powers and perform those duties.

18 SECTION 14. (a) Not prior to January 1, 2020, but no
19 later than September 30, 2020, the governor shall designate a
20 representative who shall facilitate the Hawaii commercial
21 harbors authority's orderly succession to the jurisdiction,



1 powers, functions, rights, benefits, obligations, assets,
2 liabilities, funds, accounts, contracts, and all other things
3 currently held, used, incurred, or performed by the department
4 of transportation, its director and staff, and its harbors
5 division, in administering and exercising the authority and
6 fulfilling the responsibilities authorized or conferred upon the
7 department of transportation and the director of transportation,
8 by chapters 102, 266, and 268, Hawaii Revised Statutes.

9 Not prior to October 1, 2020, but no later than December
10 31, 2020, the governor shall appoint the members of the board of
11 directors of the Hawaii commercial harbors authority.

12 To facilitate the Hawaii commercial harbors authority's
13 timely assumption of the department of transportation's
14 authority and responsibilities, including all of the
15 department's associated bonds, notes, and obligations as
16 described in sections 16 and 17 below, the department of
17 transportation, the department of accounting and general
18 services, the department of human resources development, the
19 state procurement office, and any other state department or
20 agency, if requested by the authority, shall enter into a
21 memorandum of understanding with the authority to:



- 1 (1) Provide administrative support services for the
2 authority pending the transfer of employees from the
3 department of transportation to the Hawaii commercial
4 harbors authority pursuant to section 18 of this Act;
- 5 (2) Develop a policy and set of robust procurement
6 procedures that foster accountability, transparency
7 and oversight of contracts, to include compliance with
8 federal procurement requirements;
- 9 (3) Assist the authority with the organization of its
10 human resources development functions, including
11 establishing:
- 12 (A) A human resources office;
- 13 (B) The authority's civil service and civil service
14 positions, and the classification system, merit
15 appeals board, recruitment system, performance
16 appraisal system, and the administrative rules,
17 policies, standards, and procedures, including
18 internal complaint procedures, adopted to support
19 its civil service; and
- 20 (C) The authority's exempt and excluded positions,
21 and guidelines, procedures, and policies for



1 filling them, and compensating the officers and
2 employees who fill them;

3 (4) Assist the authority in establishing its accounting,
4 budgeting, fund management, and communication and
5 electronic information systems, and creating
6 appropriate interfaces between the authority's
7 accounting, budgeting, fund management, communication
8 and electronic information systems, and those of the
9 department of transportation, and other state
10 agencies;

11 (5) Assist the authority in identifying the plans and
12 reports that departments and agencies administratively
13 attached to a department are required to prepare for
14 the governor, the legislature, or another state
15 department or agency with respect to commercial
16 maritime activities or the State's commercial harbor
17 system; determining whether those plans and reports
18 have been prepared and will be transferred to the
19 authority on the transfer completion date; and
20 preparing the same for the authority, if they do not
21 exist;



1 (6) Expediently transfer or otherwise facilitate the
2 authority's acquisition or assumption of all of the
3 powers, functions, rights, benefits, obligations,
4 assets, funds, accounts, contracts, and all other
5 things held, used, incurred, or performed by the
6 department of transportation, its director and staff,
7 and its harbors division, in exercising the authority
8 and fulfilling and administering the responsibilities
9 authorized or conferred upon the department of
10 transportation and the director of transportation by
11 chapters 102, 266, and 268, Hawaii Revised Statutes;
12 and

13 (7) Reimburse each cooperating department or agency for
14 the cost of services provided under the memorandum of
15 understanding.

16 (b) As soon as feasible, the Hawaii commercial harbors
17 authority, with the concurrence of the director of
18 transportation and the governor, shall establish the transfer
19 completion date, which shall be no later than December 31, 2022,
20 and publish notice of the transfer completion date by:



- 1 (1) Publishing the notice in a daily publication of
- 2 statewide circulation pursuant to section 1-28.5,
- 3 Hawaii Revised Statutes;
- 4 (2) Posting a copy of the notice on an electronic calendar
- 5 on a website maintained by the State;
- 6 (3) Providing a copy of the notice to the department of
- 7 transportation, the Secretaries of the United States
- 8 Department of Transportation and Department of
- 9 Defense, the Commandant of the United States Coast
- 10 Guard, and the head of every other state department;
- 11 and
- 12 (4) Posting the notice prominently at every commercial
- 13 harbor and commercial maritime facility in the State.

14 All notices shall be published, distributed, or posted at least
15 ninety days before the transfer completion date.

16 SECTION 15. It is the intent of this Act not to jeopardize
17 the receipt of any federal aid nor to impair any existing
18 federal income tax exemption to, security interest of, or
19 obligation of the State or any agency thereof to the holders of
20 any bonds or other obligations issued by the State or by any
21 department or agency of the State, and to the extent, and only



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

5 SECTION 16. This Act does not affect rights and duties
6 that matured, penalties that were incurred, and proceedings that
7 were begun before its effective date. The department of
8 transportation shall be responsible for any and all obligations
9 incurred by the department or its harbors division in connection
10 with the department's exercise of the authority and performance
11 of the duties and responsibilities conferred upon it and its
12 director by chapters 102, 266, and 268, Hawaii Revised Statutes,
13 until the time that the obligations, including any accounts
14 payable, accrued paid time off, debt, capital leases, and other
15 obligations incurred before the transfer completion date, have
16 been assumed by the Hawaii commercial harbors authority, which
17 shall not occur prior to the transfer completion date. All
18 collective bargaining disputes or claims against the department
19 grounded in an act or omission, or an event that occurred prior
20 to the transfer completion date shall remain the responsibility
21 of the department of transportation. All liabilities arising



1 out of the Hawaii commercial harbors authority's exercise of the
2 authority and performance of the duties and responsibilities
3 conferred upon it and its chief executive officer by chapters
4 102, 266, and 268, Hawaii Revised Statutes, after the transfer
5 completion date shall be the responsibility of the authority.
6 The assumption by the Hawaii commercial harbors authority of the
7 bonds, notes, or other obligations of the department of
8 transportation relating to the State's commercial harbors system
9 and commercial maritime facilities shall be subject to the terms
10 and provisions of any certificate, indenture, or resolution
11 securing those bonds, notes, or other obligations. On the
12 transfer completion date, the Hawaii commercial harbors
13 authority shall assume responsibility for all rights, duties,
14 penalties, and proceedings of the department of transportation
15 related to the State's commercial harbors system and commercial
16 maritime facilities.

17 SECTION 17. The State of Hawaii pledges to and agrees with
18 the holders of the bonds, notes, or other obligations of the
19 department of transportation being assumed by the Hawaii
20 commercial harbors authority on the transfer completion date and
21 the holders of the bonds, notes, or other obligations of the



1 harbors authority issued pursuant to chapters 37D or 39, Hawaii
2 Revised Statutes, that the State shall not limit or alter the
3 rights and powers vested in the Hawaii commercial harbors
4 authority so as to impair the terms of any contract made or
5 assumed by the Hawaii commercial harbors authority with holders
6 or in any way impair the rights and remedies of holders until
7 bonds, notes, or other obligations, together with interest
8 thereon, with interest on any unpaid installments of interest,
9 and all costs and expenses in connection with any action or
10 proceedings by or on behalf of holders, are fully met and
11 discharged. In addition, the State pledges to and agrees with
12 the holders of the bonds, notes, or other obligations of the
13 department of transportation being assumed by the Hawaii
14 commercial harbors authority on the transfer completion date and
15 the holders of the bonds, notes, or other obligations of the
16 Hawaii commercial harbors authority issued pursuant to chapter
17 37D or 39, Hawaii Revised Statutes, that the State shall not
18 limit or alter the basis on which the revenues or user taxes
19 securing any such bonds, notes, or other obligations issued or
20 assumed by the Hawaii commercial harbors authority are to be
21 received by the Hawaii commercial harbors authority, or the



1 rights of the Hawaii commercial harbors authority to the use of
2 the funds, so as to impair the terms of any contract securing
3 the same. The Hawaii commercial harbors authority is authorized
4 to include these pledges and agreements of the State in any
5 contract with the holders of bonds, notes, or other obligations
6 issued pursuant to chapter 37D or 39, Hawaii Revised Statutes.

7 SECTION 18. The Hawaii commercial harbors authority shall
8 recognize all bargaining units and collective bargaining
9 agreements existing at the time of transfer to the authority.
10 All employees who are subject to chapter 76, Hawaii Revised
11 Statutes, and occupy civil service positions and whose functions
12 are transferred to the Hawaii commercial harbors authority by
13 this Act shall retain their civil service status, whether
14 permanent or temporary. The employees shall be transferred to
15 the authority without loss of salary, seniority (except as
16 prescribed by applicable collective bargaining agreements),
17 retention points, prior service credits, any vacation and sick
18 leave credits previously earned, and other rights, benefits, and
19 privileges, in accordance with state personnel laws and this
20 Act; provided that the employees meet applicable requirements



1 for the class or position to which transferred or appointed, as
2 applicable.

3 Any employee who, prior to this Act, is a member of a
4 bargaining unit shall remain a member of that bargaining unit
5 when future collective bargaining agreements are negotiated.

6 Any employee who, prior to this Act, is exempt from civil
7 service and is transferred to the authority as a consequence of
8 this Act may retain the employee's exempt status, but shall not
9 be appointed to a civil service position as a consequence of
10 this Act. An exempt employee who is transferred by this Act
11 shall not suffer any loss of prior service credit, vacation or
12 sick leave credits previously earned, or other employee benefits
13 or privileges as a consequence of this Act. The chief executive
14 officer of the Hawaii commercial harbors authority may prescribe
15 the duties and qualifications of these employees and fix their
16 salaries without regard to chapter 76, Hawaii Revised Statutes.

17 No employee included in a collective bargaining unit as an
18 employee of the department of transportation shall be laid off
19 as a consequence of this Act.

20 SECTION 19. On or no more than ninety days after the
21 transfer completion date, all appropriations, records,



1 equipment, machines, files, supplies, contracts, books, papers,
2 documents, maps, and other personal property heretofore made,
3 used, acquired, or held by the department of transportation
4 relating to the functions transferred to the Hawaii commercial
5 harbors authority shall be transferred with the functions to
6 which they relate.

7 SECTION 20. All rules, policies, procedures, guidelines,
8 and other material adopted or developed by the department of
9 transportation to implement provisions of the Hawaii Revised
10 Statutes that are reenacted or made applicable to the Hawaii
11 commercial harbors authority by this Act shall remain in full
12 force and effect on and after the transfer completion date
13 established pursuant to section 14(b) of this Act, until amended
14 or repealed by the Hawaii commercial harbors authority pursuant
15 to chapter 91, Hawaii Revised Statutes. In the interim, every
16 reference to the department of transportation or director of
17 transportation in those rules, policies, procedures, guidelines,
18 and other material is amended to refer to the Hawaii commercial
19 harbors authority or chief executive officer of the authority,
20 as appropriate.



1 SECTION 21. All deeds, executive orders, leases,
2 contracts, loans, agreements, permits, or other documents
3 executed or entered into by or on behalf of the department of
4 transportation, pursuant to the provisions of the Hawaii Revised
5 Statutes, that are reenacted or made applicable to the Hawaii
6 commercial harbors authority by this Act shall remain in full
7 force and effect. On the transfer completion date established
8 pursuant to section 14(b) of this Act, every reference to the
9 department of transportation in those deeds, executive orders,
10 leases, contracts, loans, agreements, permits or other documents
11 shall be construed as a reference to the Hawaii commercial
12 harbors authority or the board of directors of the authority.

13 SECTION 22. There is appropriated out of the harbor
14 special fund the sum of \$ or so much thereof as may be
15 necessary for fiscal year 2019-2020 and the same sum or so much
16 thereof as may be necessary for fiscal year 2020-2021 to begin
17 preparations for the transfer of functions from the department
18 of transportation to the Hawaii commercial harbors authority
19 pursuant to this Act.

20 The sums appropriated shall be expended by the Hawaii
21 commercial harbors authority for the purposes of this Act.



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1 SECTION 23. If any provision of this Act, or the
 2 application thereof to any person or circumstance, is held
 3 invalid, the invalidity does not affect other provisions or
 4 applications of the Act that can be given effect without the
 5 invalid provision or application, and to this end the provisions
 6 of this Act are severable.

7 SECTION 24. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 25. This Act shall take effect on July 1, 2019;
 10 provided that the amendments made to section 103D-203, Hawaii
 11 Revised Statutes, by section 9 of this Act shall not be repealed
 12 when that section is reenacted on June 30, 2021, pursuant to
 13 section 6 of Act 42, Session Laws of Hawaii 2018.

14

INTRODUCED BY: *Scott . Sum*

JAN 24 2019



H.B. NO. 1572

Report Title:

Hawaii Commercial Harbors Authority; DOT; Commercial Harbors;
Commercial Maritime; Appropriation

Description:

Establishes the Hawaii Commercial Harbors Authority. Transfers jurisdiction and functions relating to commercial harbors and commercial maritime operations from the Department of Transportation to the Hawaii Commercial Harbors Authority. Appropriates funds.

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

