



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

S.B. No. 1482, RELATING TO THE HAWAII COMMERCIAL HARBORS AUTHORITY.

BEFORE THE:

SENATE COMMITTEE ON TRANSPORTATION
SENATE COMMITTEE ON GOVERNMENT OPERATIONS

DATE: Tuesday, February 12, 2019 **TIME:** 3:30 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Clare E. Connors, Attorney General, or
Marjorie A. Lau, Deputy Attorney General

Chair Inouye, Chair Thielen, and Members of the Committees:

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

The purpose of this bill is to establish the Hawaii Commercial Harbors Authority (Authority). The Authority would be placed within the Department of Transportation (DOT) for administrative purposes. The Authority would assume all of the authority, powers, functions, duties, and responsibilities of the DOT relating to commercial maritime activities, operations, facilities, and harbors. The bill provides that the act shall take effect on July 1, 2019, and that the transfer completion date shall be no later than December 31, 2022.

1. Subsection (b) on page 5, lines 17-18, provides that the powers of the Authority shall be vested in and exercised by a board of directors (Board). However, subsection (h) on page 7, lines 19-21, provides that the Authority shall be headed by a single executive to be known as the chief executive officer (CEO) of the Authority. To make clear that the head of the Authority is its Board, not its CEO, subsection (h) on page 7, lines 19-21, should be revised to read:

- (h) The board of directors of the authority shall appoint a single executive to be known as the chief executive officer of the Hawaii commercial harbors authority, who shall:

2. To exempt (but not necessarily require that) up to two members of the Authority's Board from the requirements in section 78-1(b), Hawaii Revised Statutes, that appointed officers of the State, including members of boards and commissions be residents of the State, subsection (d) on page 7, lines 4-8, should be revised to read:

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

3. Related to comment 1 above, Section 13 on page 46, lines 13-21, and on page 47, lines 1-2, provides that on or before the transfer completion date every reference to the director of transportation or "director" shall be a reference to the CEO of the Authority. Section 13 on page 46, lines 20-21, continuing on page 47, lines 1-2, provides that after the transfer completion date, the revisor of statutes shall make appropriate changes including substituting the phrase "chief executive officer" for the terms "director" or "director of transportation." However, if the Authority is to be headed by the Board, not the CEO, then the references and substitution should be for "board of directors" for the terms "director" or "director of transportation." Additionally, on page 54, lines 3-6, and on page 58, lines 17-20, continuing on page 59, lines 1-2, reference to "board of directors" instead of "chief executive officer" may also be considered.

Thank you for the opportunity to comment on this bill.



SENATE COMMITTEE ON TRANSPORTATION

The Honorable Lorraine R. Inouye, Chair
The Honorable Breene Harimoto, Vice Chair

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

The Honorable Laura H. Thielen, Chair
The Honorable Lorraine R. Inouye, Vice Chair

**S.B. NO. 1482, RELATING TO THE HAWAI'I COMMERCIAL HARBORS
AUTHORITY**

Hearing: Tuesday, February 12, 2019, 3:30 p.m.

The Office of the Auditor has **no position** regarding S.B. No. 1482, which establishes the Hawai'i Commercial Harbors Authority and amends the Hawai'i Revised Statutes (HRS) to add a new Chapter relating to the Authority. **However, with respect to proposed Section 10 of the new Chapter, we have concerns about our ability to perform certain of the work and offer other suggestions.**

S.B. No. 1482 establishes the Hawai'i Commercial Harbors Authority, which is vested with the responsibility to:

1. Develop and implement management structures, policies, and procedures based on commercial harbors industry best practices;
2. Efficiently develop, manage, operate, and maintain the State's commercial harbors and maritime facilities; and
3. Administer the provisions of Chapters 102, 266, and 268, HRS, that are applicable to commercial harbors and maritime facilities.

The bill requires "the auditor [to] conduct management and financial audits of the authority for fiscal year 2024 and every second year thereafter."

We have strong concerns about our capacity to perform the recurring work required by this bill without additional staff. We currently are statutorily mandated to regularly audit the Office of Hawaiian Affairs, the Hawai'i Tourism Authority, and the Deposit Beverage Container Program; to review departments' special funds, revolving funds, trust funds, and trust accounts; to assess proposed special and revolving funds; and to analyze the State's tax incentives. We also receive requests for audits and other studies each legislative session.

If tasked with performing the management and financial audits of the authority every other year, we likely will retain a contractor to perform all or some of the required work. We suggest the authority be required to reimburse us the costs that we incur to perform the audits, similar to the

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Department of Health's obligation to reimburse us for the costs we incur to audit the Deposit Beverage Container program every other year. *See* Section 342G-107, HRS.

Thank you for considering our testimony related to S.B. No. 1482.

Testimony of Ku'uhaku Park
On Behalf of Matson
Support of SB1482
Before the Senate Committees on Transportation and Government Operations
February 12, 2019

Dear Chair Inouye, Chair Thielen, Vice Chair Harimoto, and Members,

Matson strongly supports SB1482, which establishes the Hawaii Commercial Harbors Authority. Matson is the largest user of the state harbor system and the largest contributor to the operating budget of the State's harbors. The Commercial Harbors Authority structure outlined in this measure will allow for a more efficient and cost-effective process for much needed harbor renovations. It will also create a platform for integrated planning that will greatly benefit the State of Hawaii.

The current governance model is not conducive to maximizing efficiency for the current harbor system. The responsibility of development, management, and operation of the State's commercial harbor system are distributed among several state agencies. Delays to the capital program, deferral of maintenance and modernization resulting from complex State approval requirements and decision-making processes are limiting capacity to accommodate demand. An independent authority would allow for quicker decision-making and a streamlined process for budgeting and procurement.

Thank you for your consideration of my testimony in strong support.

The Thirtieth Legislature
Regular Session of 2019

THE SENATE

Committee on Transportation
Committee on Government Operations
Senator Lorraine R. Inouye, Chair
Senator Breene Harimoto, Vice Chair
Senator Laura H. Thielen, Chair
Senator Lorraine R. Inouye, Vice Chair
State Capitol, Conference Room 225
Tuesday, February 12, 2019; 3:30 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 1482
RELATING TO THE HAWAII COMMERCIAL HARBORS AUTHORITY**

The ILWU Local 142 **opposes** S.B. 1482, which 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 and appropriates funds.

The ILWU has strong reservations regarding the establishment of a Hawaii Commercial Harbors Authority in Hawaii, and we recommend further discussion on this issue with all the stakeholders to determine the best outcome for Hawaii's harbors and ports. We suggest the formation of a working group with the appropriate stakeholders to determine the best solution.

As a result, the ILWU Local 142 urges S.B. 1482 be deferred and/or amended to a working group. Thank you for the opportunity to offer testimony on this measure.