

TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

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

March 19, 2019
9:30 a.m.
State Capitol, Room 309

**S.B. 666, S.D. 2, H.D. 1
RELATING TO AN AIRPORTS CORPORATION**

House Committee on Labor & Public Employment

The Department of Transportation (DOT) **supports the intent** of S.B. 666, S.D.2., H.D. 1 to improve the efficiency and effectiveness of the State's airports and offers the following comments for the Committee's consideration:

- 1) Making the Hawaii Airport Corporation (HAC) subject to Chapter 103D, Hawaii Revised Statutes (HRS), will not permit HAC to establish an efficient procurement system similar to those implemented at other U.S. large-hub airports, such as an expedited process of resolving bid protests or selecting proposals based on best value. Requiring HAC to be subject to Chapter 103D will continue to cause further delay to capital improvement projects urgently required for the Hawaii Airports System. Rather, the HAC would establish procurement policies and procedures to "right fit" the needs of an enterprise fund, rather than continue to adhere to a standardized procurement code for all State departments. The process to complete a project currently takes an average of 4 years due to the cumbersome process to obtain planners, designers and contractors. A HAC without the opportunity to improve or streamline the procurement processes and procedures will only just create excessive bureaucracy that do not address actual problems and challenges. Chapter 103D makes it difficult to sustain constant schedule and performance over time for many projects particularly large ones that are multiyear.
- 2) Making the HAC subject to Chapter 104, HRS, and inserting language requiring labor peace will increase construction costs, which will impact rates and charges passed on to airlines, concessions and other users. It may reduce revenues to support airports, since cost of concessions doing business at airports will be higher resulting in less rents to be paid by concessions to the airports, encourage businesses to locate their businesses off-airports rather than on airports, and raise the prices for retail, food and beverage passed on to the travelling public which includes local residents. Chapter 104 appears intended to apply to "public projects paid for by tax-payer dollars" and not public airports supported by user rates and

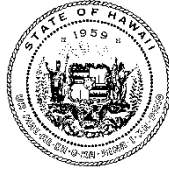
charges. Our airports are not supported by tax payer dollars and thus dependent on businesses seeking to do business on airport properties and paying rates and charges to support our public airport system that relies totally on the collection of monies paid into a special fund. Without Chapter 104 unions will still have the right to organize and seek employee rights under current laws which they have been successful in doing with HMS Host, food and beverage concession operator at many of Hawaii's airports. In principle, labor peace in the workplace is not only the right thing to do, but also makes good business sense. We don't want disruption of services at the airports. However, we can't interfere with private contracts.

- 3) Removing the language authorizing the Governor to appropriate a lump sum for the HAC's budget will hamper the HAC's flexibility to adjust capital or operational needs due to unforeseen situations. An example is a current project that put our staff, designers and contractors under pressure, was to meet the unexpected request by All Nippon Airways to bring the Airbus 380 to Hawaii. We needed to accommodate the request due to the increased economic benefits to Hawaii's economy and tourism industry. The request came in during the legislative session and the CIP budget was set. As a result, we needed to wait to the following year to request funding. A lump sum budget would have allowed the flexibility to defer another project in this situation. The ability to adapt and provide flexibility is needed to meet our mission in an extremely dynamic business environment.
- 4) Relating to oversight of the HAC besides the Board of Directors and the CEO, it should be noted that U.S. airports are already heavily regulated by the Federal Aviation Administration (FAA). The FAA provides federal grant funding of approximately exceeding \$25 million annually and performs revenue use audits assuring such funding is properly utilized for airport purposes only. In addition, Signatory Airlines are ultimately responsible for providing adequate revenues to Hawaii Airports System, and therefore scrutinize Hawaii Airports System's operating expenses and capital spending on a mid-year and annual basis. In addition, the Legislative Auditor performs periodic management audits. the bond covenants require annual audited financial statements, and rating agencies perform annual surveillance reviews of the airports financial position and outlook.
- 5) Reference of Chapter 37D will prohibit the HAC to issue Certificate of Participation Bonds once the transfer is completed, which are used to fund energy performance saving contracts. Suggest to revision to the language to read "(b) The corporation shall not be subject to chapters 36, 37, 38, and 40, except for section 36-28.5 and as otherwise provided in this chapter and chapter 261."

In order for the Hawaii Airport System to compete against other domestic and international leisure destinations, we must further improve and maintain our facilities to meet the expectations and demands of the traveling public. The Airport Corporation needs to commence now, rather than later.

Thank you for the opportunity to provide testimony.

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
BONNIE KAHAKUI
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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**TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE**

**TO THE HOUSE COMMITTEE
ON
LABOR AND PUBLIC EMPLOYEMENT
March 19, 2019, 9:30 AM**

**SB666 SD2 HD1
RELATING TO AIRPORT CORPPORATION**

Chair Johanson, Vice-Chair Eli, and members of the committee, thank you for the opportunity to submit testimony on SB666, SD2, HD1. The State Procurement Office's (SPO) supports the intent of the bill and is submitting comments.

Concern:

This amended Bill contains conflicting requirements: it requires the Hawaii Airport Corporation (HAC) to fall under the State Procurement Code (Code), HRS §103D, however, it then also exempts the HAC from the same Code.

Inside the Code:

Page 11, line 14 states that the Hawaii Airport Corporation (HAC) "Shall be subject to the provisions of chapter 103D..." Additionally, on page 77 Description states "Makes HAC subject to the Hawaii Procurement Code."

Outside the Code:

However, on page 49, lines 11 to 13, which states "The Hawaii airport corporation; provided that the airports corporation adopts rules that meet the requirement of section -3," adds the HAC to the list of entities whose contract are exempt from the procurement code.

The Committee Report:

Pursuant to the latest Committee Report #HSCR1369, it is the intent to the committee to amend the measure "1) Making the HAC subject to Chapter 103D, Hawaii Revised Statutes, and removing language authorizing the HAC to develop an internal procurement system;"

Options.

Option 1: Should Legislature decide that the HAC lies within the Code, SPO recommends removing the verbiage on page 49, lines 11 to 13:

~~(3) The Hawaii airports corporation; provided that the airports corporation adopts rules that meet the requirements of section -3."~~

Option 2: Should Legislature decide that the HAC be exempt from the Code, SPO recommends re-instituting the original language that details the minimum procurement requirements and includes our verbiage amendment request per our previous testimonies as follows:

A. Reference: Section 2, Part I General Provisions, -3 Powers; generally, (6) (A)-(L)

(6) Shall be exempt from the provisions of chapter 103D; provided that prior to the implementation of the exemption, the corporation shall *be subject to the procurement requirements of HRS §103D. The corporation shall* adopt rules pursuant to chapter 91; provided further that the *state procurement office shall review and the HAC Board approve such rules* ~~corporation shall consult with the state procurement office prior to adopting the rules~~ *adoption*. The rules shall provide, at a minimum, for the following:

- (A) A chief procurement officer position shall be established to oversee a centralized set of procurement professionals to conduct procurement;
- (B) The board of directors shall maintain internal policies and procedures for the timely and efficient procurement of goods and services, including planning, engineering, and construction services, to include post-award contract management and oversight procedures, that are consistent with the goals of public accountability and public procurement practices;
- (C) Procurement policies shall be published and available to the public;
- (D) The corporation shall implement and maintain an electronic procurement system to ensure electronic posting, to include requisition-to-check, contract management, and spend analysis modules. All solicitations, including any bid openings, and additional solicitation documents shall be publicly available online;
- (E) The corporation shall develop key performance indicators covering the following four areas:
 - (i) Effective management and increased efficiency of the procurement process;
 - (ii) Contract management and supplier performance;
 - (iii) Transparency, openness, and accountability of procurement processes; and
 - (iv) Professionalism of the procurement workforce;
- (F) The corporation shall develop a training and procurement delegation system;
- (G) Professional services contracts for licensees under chapter 464 shall be procured in accordance with section 103D-304; whereas all other services may be procured using best value competitive proposals and using, insofar as practical,

- deliverables as a payment method and limiting use of time and materials contracts;
- (H) Cost plus percentage of cost type contracts shall be disallowed;
 - (I) Insofar as practical, and based on specifications developed, adequate and reasonable competition of no fewer than three proposals shall be solicited for each project;
 - (J) Factors, including quality, warranty, delivery, and full lifecycle costs to include handover, surge, and disaster preparedness factors, and a best-value award, to include a past performance evaluation factor, shall be considered in determining the offeror with the most advantageous proposal;
 - (K) The procurement requirements shall not be artificially divided or parceled so as to avoid competitive bidding or competitive proposals; and
 - (L) The corporation shall implement a dispute resolution process for procurement award and post-award contract actions;

B. Reference: Section 12, (c)(3), Page 49 Lines 11-13

SPO Highly recommends removing the proviso in this section as the proviso is a short-term requirement, and is taken care of in earlier requirements in Section 2 (as above). It is not advisable to include caveats as this area of Statute should remain clean and clear.

Recommended verbiage:

SECTION 12. Section 103D-102, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

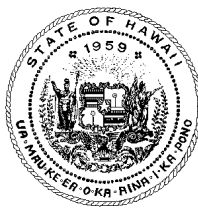
"(c) Notwithstanding subsection (a), this chapter shall not apply to contracts made by:

- (1) Any regional system board of the Hawaii health systems corporation; ~~or~~
- (2) The Kaho'olawe island reserve commission, except as provided by section 6K-4.5[-]; or

(3) The Hawaii airports corporation.; provided that the airports corporation adopts rules that meet the requirements of section — 3."

Thank you.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

NOLAN P. ESPINDA
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Maria C. Cook
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Renee R. Sonobe Hong
Deputy Director
Law Enforcement

WRITTEN TESTIMONY ONLY

TESTIMONY ON SENATE BILL 666, SENATE DRAFT 2, HOUSE DRAFT 1
RELATING TO AN AIRPORTS CORPORATION.

by

Nolan P. Espinda, Director
Department of Public Safety

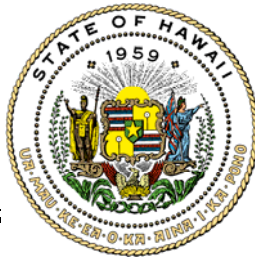
House Committee on Labor and Public Employment
Representative Aaron Ling Johanson, Chair
Representative Stacelynn K.M. Eli, Vice Chair

Tuesday, March 19, 2019; 9:30 a.m.
State Capitol, Conference Room 309

Chair Johanson, Vice Chair Eli, and Members of the Committee:

The Department of Public Safety (PSD) supports Senate Bill (SB) 666, Senate Draft (SD) 2, House Draft (HD) 1, which authorizes the establishment of the Hawaii Airports Corporation within the Department of Transportation for administrative purposes. PSD supports the intent of a separate authority to develop, manage, operate, and maintain the State's airports.

Thank you for the opportunity to provide written testimony on this measure.



HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
The Honorable Aaron Ling Johanson, Chair
The Honorable Stacelynn K.M. Eli, Vice Chair

S.B. NO. 666, S.D. 2, H.D. 1, RELATING TO AN AIRPORTS CORPORATION

Hearing: Tuesday, March 19, 2019, 9:30 a.m.

The Office of the Auditor has **no position** regarding S.B. No. 666, S.D. 2, H.D. 1, which establishes the Hawai'i Airports Corporation and amends the Hawai'i Revised Statutes (HRS) to add a new Chapter relating to the corporation. **However, with respect to proposed Section 17 of the new Chapter, we have concerns about our ability to perform certain of the work and offer other suggestions.**

S.B. No. 666, S.D. 2, H.D. 1, establishes the Hawai'i Airports Corporation, which is vested with the responsibility to:

1. Develop and implement management structures, policies, and procedures based on airport industry best practices;
2. Efficiently develop, manage, operate, and maintain the State's airports and aeronautical facilities; and
3. Administer the provisions of Chapters 102, 261, 261D, and 262, HRS, that are applicable to airports and aeronautical facilities.

The bill requires "the auditor [to] conduct management and financial audits of the corporation for fiscal year 2023 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.

Further, conducting a management and financial audit for fiscal year 2023 may be premature given that the bill allows for the corporation to be established as late as December 31, 2022. Because audits are an historic assessment of an agency's performance, it is necessary to have sufficient historical data to meaningfully assess. The corporation will likely need time to develop and implement the policies, procedures, and processes so that we can assess whether it is carrying out its statutory responsibilities we note above.

Thank you for considering our testimony related to S.B. No. 666, S.D. 2, H.D. 1.



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David Y. Ige
Governor

Chris Tatum
President and Chief Executive Officer

Statement of
CHRIS TATUM

Hawai'i Tourism Authority
before the
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Tuesday, March 19, 2019
9:30AM
State Capitol, Conference Room #309

In consideration of
SENATE BILL NO 666 SD2 HD1
RELATING TO AN AIRPORTS CORPORATION.

Chair Johanson, Vice Chair Eli and members of the House Committee on Labor & Public Employment, the Hawai'i Tourism Authority (HTA) **strongly supports** Senate Bill 666 SD2 HD1 which established a Hawai'i Airports Corporation within the Department of Transportation for administrative purposes.

HTA supports the creation of the Hawai'i Airports Corporation for the following reasons:

1. An independent airport corporation would provide flexibility and expedite facility improvements; and,
2. An independent airport corporation would allow funds generated by airport operations to be reinvested in operations and facilities without the need to seek executive or legislative approval; and,
3. An independent airport corporation would ensure our airports are developed to the highest standards, are well-maintained and are positioned to compete with other first-class facilities throughout the world; and
4. An independent airport corporation would help promote an enhanced experience at the point of entry and point of departure for both residents and visitors; and
5. An independent airport corporation, such as the one proposed here in this bill, is a model that has been proven successful in numerous world-class airports such as San Francisco International Airport and Dallas/Fort Worth International Airport.

It is for these reasons that the HTA **strongly supports** Senate Bill 666 SD2 HD1. We appreciate this opportunity to provide testimony.

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
LABOR & PUBLIC EMPLOYMENT**

**Tuesday, March 19, 2019
9:30 AM
State Capitol, Conference Room 309**

**In consideration of
SENATE BILL 666, SENATE DRAFT 2, HOUSE DRAFT 1
RELATING TO AN AIRPORTS CORPORATION**

Senate Bill 666, Senate Draft 2, House Draft 1 proposes to authorize the establishment of the Hawaii Airports Corporation (Corporation) within the Department of Transportation (DOT) for administrative purposes. The measure provides for appointment of members to the board of directors and powers and duties of the Corporation, transfers aeronautics functions and the real property assets of DOT to the Corporation by the established transfer completion date agreed upon by the Corporation, the director of DOT, and the Governor, which shall be no later than December 31, 2022, and appropriates funds. House Draft 1 of the measure makes the Corporation subject to the State procurement code and Chapter 104, Hawaii Revised Statutes, on Wages and Hours of Employees on Public works projects, removes language authorizing the Governor to appropriate a lump sum for the Corporation's budget and instead making the Corporation subject to the legislative budget process, requires the Corporation to set rates and determine costs using the residual method, makes the Corporation board and chief executive officer subject to public financial disclosure statutes, inserts new language relating to worker retention requirements, and makes technical, non-substantive changes for clarity consistency and style. **The Department of Land and Natural Resources (Department) recognizes DOT's desire to place the State's airports under the Corporation.**

The Department notes that any public trust lands held by DOT under Governor's executive order will be deemed to held by the Corporation as of the transfer completion date. Accordingly, no action by the Board of Land and Natural Resources or the Governor would be needed to cancel existing executive orders to DOT and reset aside airport lands to the Corporation.

Thank you for the opportunity to comment on this measure.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



SB666 SD2 HD1
RELATING TO AN AIRPORTS CORPORATION
House Committee on Labor & Public Employment

March 19, 2019

9:30 a.m.

Room 309

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB666 SD2 HD1, which would establish the Hawai‘i Airports Corporation (Corporation) to exercise consolidated jurisdiction over the State’s airports and airport lands.

While OHA takes no position on the creation of a Corporation authority for airports, OHA appreciates that this measure addresses our significant concerns over similar bills introduced in past legislative sessions, regarding language that would have explicitly exempted the Corporation and Corporation-held lands from Hawai‘i Revised Statutes (HRS) Chapter 171, with no alternative safeguards for the disposition of the Corporation’s public lands.

Under Article 11, section 1 of the Hawai‘i State Constitution and HRS Chapter 171, the State holds in trust approximately 1.3 million acres of public lands, including the natural and cultural resources they contain, for the benefit of present and future generations. The vast majority of these lands are “ceded” lands, most of which are also subject to the public land trust created by Article 12 of the Hawai‘i State Constitution and the Admission Act section 5(f). OHA notes that the trust status of these lands imposes on the State specific fiduciary obligations of due diligence and undivided loyalty, in making the trust corpus productive and maximizing its benefits for the trust’s Native Hawaiian and public beneficiaries. Native Hawaiians’ unrelinquished claims to “ceded” lands also obligates the state to maintain the “ceded” lands corpus, pending the resolution of such claims; with narrow exceptions, OHA opposes the sale or alienation of any “ceded” lands as well as any exception to procedural safeguards intended to prevent the diminution of the corpus.

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

public trust and public land trust, by foreclosing opportunities to maximize the financial and intangible benefits derived from the trust corpus, and fostering a sense of entitlement in long-term lessees that can and has in the past led to the alienation of public lands. **The previously proposed exemptions from Chapter 171, particularly without alternative safeguards for land dispositions, may have threatened a range of Native Hawaiian interests in our limited public land base.**

Accordingly, OHA greatly appreciates the inclusion of express safeguards for land dispositions in SB666 SD2 HD1, specifically relating to procedural requirements for the sale, gift, or exchange of Corporation-held lands, and the requirement that any leases, subleases, or permits issued for Corporation lands be issued in accordance with publicly-vetted administrative rules. **OHA would like to emphasize that these provisions reflect and satisfy OHA's previous concerns regarding the protection of Native Hawaiian rights related to "ceded" lands, other public lands, and the public land trust.**

Mahalo for the opportunity to testify on this measure.



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

ON THE FOLLOWING MEASURE:

S.B. NO. 666, S.D. 2, H.D. 1, RELATING TO AN AIRPORTS CORPORATION.

BEFORE THE:

HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

DATE: Tuesday, March 19, 2019

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): Clare E. Connors, Attorney General, or
Michael Q.Y. Lau, Deputy Attorney General

Chair Ling Johanson and Members of the Committee:

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

The purpose of the bill is to establish the Hawaii Airports Corporation ("Corporation"). The Corporation would be placed within the Department of Transportation (DOT) for administrative purposes. The functions, powers, and responsibilities of the DOT for the management and operations of state airports and aeronautics are to be transferred from DOT to the Corporation by no later than December 31, 2022.

1. Bond counsel for the State recommended that the following underscored wording be added to the bill:

a. Page 15, lines 18-21, "corporation and reserves therefor, including expenditures for capital improvement projects approved by the legislature, and to comply with covenants and agreements with holders of airport revenue bonds; provided that the rates, rentals, fees, or charges are established at an open meeting subject to the requirements of chapter 92;"

This revision would make paragraph (18) consistent with the wording in section 15, page 55, lines 8-11.

b. Page 23, line 6: "revenue bonds, bond anticipation notes, and certificates of participation."

This revision allows the corporation to request that the lump sum appropriation include revenue bonds, bond anticipation notes, and certificates of participation.

2. The new section -18, page 23, lines 10-12, requires that the corporation use the residual method when determining the overall costs and assigning rates and charges. This wording is superfluous. Section 15 starting at page 53, line 4, amends certain portions of section 261-7(e), Hawaii Revised Statutes. However, section 15, page 55, lines 1-4, maintains the requirement that rates, rentals, fees, and charges, be developed in accordance with the residual methodology. As noted below, the term “chief executive officer” should be replaced with “corporation” on page 55, line 1.

3. Section 15, page 53, line 21, and page 54, lines 1-2, provides that the corporation shall fix, impose, prescribe, and collect rates, rentals, fees, or charges for the lease, use, and services of its airport facilities. Page 54 through page 57 makes nine substitutions that replace “director” with “chief executive officer.” “Corporation” rather than “chief executive officer” should be used to replace “director” because it is the “corporation” that develops the airport rates, fees, and charges and will be the entity that enters into contracts for the use of airport property.

4. At page 58, line 21, insert “corporation or the” between “the” and “chief executive officer” and add “depending upon which of the two is authorized to act under the new chapter added to the Hawaii Revised Statutes in section 2 of this Act” before the period at the end of line 19.

This revision is necessary because the Corporation’s powers are exercised through its board of directors. Section 2, page 8, lines 18-21, further provides that the chief executive officer has the powers as may be delegated by the board. The bill establishes two entities to replace the Director of Transportation, which is a single officer.

5. At page 59, line 5, insert “corporation or the” between “the” and “phrase ‘chief executive officer’” and add “depending on which of the two is authorized to act under the new chapter added to Hawaii Revised Statutes in section 2 of this Act” before the semicolon at the end of line 7.

6. Wording in the bill was added to Section 23, page 72, lines 9-21, and page 73, lines 1-3, to provide for certain worker retention requirements for employers doing business at airports pursuant to a concession contract or subcontract. The retention requirements applicable to “workers who are employed by the previous concessionaire or who were employed at the end of that concessionaire’s contract and who have been displaced[.]” on page 72, lines 15-17, is unclear.

7. Section 30 on page 75, lines 12-17, and page 76, lines 1-5, provides that the amendments in section 15 made to section 261-7(e), Hawaii Revised Statutes, shall be delayed until the satisfaction and discharge of certain certificates and indentures. The satisfaction and discharge of these obligations will occur after the transition completion date, which shall be no later than December 31, 2022, as provided in section 19(b), page 66, lines 7-10. Accordingly, the Director of Transportation will still have certain obligations under section 261-7(e) even after the transition of responsibility for the operation of state airports from the Department of Transportation to the Corporation.

The delay date is not necessary. The existing bond covenants required that the Department of Transportation maintain the residual methodology when developing rates, rentals, fees, and charges. Hawaii Revised Statutes section 261-7(e) requires the Department of Transportation to utilize the residual methodology. Last year, airport corporation bill SB 2996 attempted to remove the residual methodology. The delay date language was implemented to maintain the residual methodology until the existing bond obligations were satisfied.

Section 15, page 55, lines 1-3, of the current bill maintains the residual methodology in section 261-7(e), Hawaii Revised Statutes. Accordingly, the delay date in section 30 for section 15 is not necessary.

Thank you for the opportunity to comment on this bill.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Labor & Public Employment
March 19, 2019 at 9:30 a.m.

By
Kalbert K. Young
Vice President for Budget and Finance/Chief Financial Officer
University of Hawai'i System

SB 666 SD2 HD1– RELATING TO AN AIRPORTS CORPORATION

Chair Johanson, Vice Chair Eli, and members of the Committee:

Thank you for the opportunity to submit testimony on SB 666 SD2 HD1 which among other things, authorizes the establishment of the Hawai'i Airports Corporation within the Department of Transportation for administrative purposes.

The University of Hawai'i (UH) supports SB 666 SD2 HD1, and believes the establishment of such a corporation would allow for the airport to operate more effectively and efficiently and enable capital improvements projects to be completed in a more timely manner.

The quality and appearance of our local airports serve as a critical impression on arriving students and families. UH considers the airports and all State facilities as a showcase of Hawai'i. For many visitors arriving into the State, the first impression is experienced at the airport, and this includes UH's non-resident students along with their families and prospective and current faculty members.

Thank you for the opportunity to testify on this important measure.

SAH - Subcontractors Association of Hawaii

1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938

Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

March 19, 2019

Testimony To: House Committee on Labor & Public Employment
Representative Aaron Ling Johanson, Chair

Presented By: Tim Lyons, President

Subject: S.B. 666, SD 2, HD 1 – RELATNG TO AN AIRPORTS CORPORATION.

Chair Johanson and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii. The SAH represents the following nine separate and distinct contracting trade organizations.

HAWAII FLOORING ASSOCIATION

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

ELECTRICAL CONTRACTORS ASSOCIAETION OF HAWAII

TILE CONTRACTORS PROMOTIONAL PROGRAM

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

We have not actually taken a position on the establishment of an airports corporation however, we do know that based on the testimony that we heard last year, it sounds like an idea that is headed in the right direction.

We can support this version of the bill. We wholeheartedly congratulate the prior Committee for its amendments to include the Procurement Code and specifically recognize Chapter 104.

The Procurement Code was put into place in order to avoid irregularities in the expenditure of public money. It serves a good purpose. We have heard few accusations tying the operational aspects of the Procurement Code and the other woes of the airport together. Last year, the Legislature took another alternative and adopted the wise move to add language from 103E-302(b) to this bill. We prefer the overall inclusion of the Procurement Code.

Thank you for the opportunity to testify.



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HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
Tuesday, March 19, 2019, 9:30 AM, Conference Room 309
Senate Bill 666, SD 2, HD 1 Relating to an Airports Corporation
COMMENTS

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Johanson and Committee Members:

The League of Women Voters of Hawaii takes no position on whether jurisdiction for state airports should be transferred to a semi-autonomous Hawaii Airports Corporation. However, we suggest amending SB 666, SD 2, HD 1 to address the following concerns:

The State DOA, DLNR, and DOH may need airport space to control introduction of noxious non-native plants, animals, and diseases at state airports. They also may need to assess user fees to fund their airport-related responsibilities. To minimize potential future conflicts, we suggest amending SB 666, SD 2, HD 1 to explicitly require the proposed Airports Corporation to cooperate with state agencies which need airport space and/or need to collect airport-related user fees for their airport-related functions.

It would seem reasonable for a statute creating an Airports Corporation to incorporate a transparent process and reasonable criteria for lease of airport property. However, SB 666, SD 2, HD 1 would give the proposed Airports Corporation unfettered discretion over when to favor or subsidize commercial enterprises with either non-bid leases or below-market leases of public property.

Although SB 666, SD 2, HD 1 does not address “hidden” state subsidies, we question whether it is appropriate for the state to allow tax exemptions for (and forego general fund revenues from) airport-related concessions operating outside of airports while using the state general fund to compensate OHA for its “share” of revenues arising from private use of ceded lands within airports.

Thank you for the opportunity to submit testimony.



March 16, 2019

Representative Aaron Ling Johanson, Chair
Representative Stacelynn Eli, Vice Chair
House Committee on Labor & Public Employment

Re: SB 666 SD2 HD1 - RELATING TO AN AIRPORTS CORPORATION

Dear Representative Johanson, Representative Eli and Members of the House Committee on Labor & Public Employment:

The Kohala Coast Resort Association (KCRA) supports the concept of an airports corporation but is in opposition of the current draft of SB 666, as the provisions necessary to execute critical capital improvement programs in a timely and efficient manner are not included and other additional amendments make it impracticable. We urge you to consider amending back to the SD2.

Unlike other State departments and authorities, the airports are self-sustaining. No State general funds are used for Hawaii's airports and the Hawaii Airport Corporation (HAC) will not require any. It will be fully funded by user fees and underwritten by the airlines serving the State's airport system.

Hawaii is one of only three states that operate airports. Most U.S. airports are operated by authorities or corporations or a hybrid of the same. It is proven that airport authorities can develop and implement policies and procedures designed to deliver uniquely complex airport capital programs more effectively, while retaining full public transparency and accountability.

Hawaii's airports are inferior to other airports serving leading travel destinations. The HAC will increase responsiveness to consumer needs, commercial opportunities and economic demands through dedicated expert airport leadership, management continuity and year-round decision-making, consistent with industry best practices.

The HAC will be a highly regulated and scrutinized organization. It will be reviewed and certified by the Federal Aviation Administration (FAA). The FAA also imposes many regulatory requirements on airports and consistently monitors compliance.

Thank you for the opportunity to provide testimony. We respectfully request your consideration in amending SB 666 to the SD2 version of the bill. Visitors and residents deserve a much better airport experience and one that encompasses the spirit and beauty of our Aloha State.

KCRA is a collection of master-planned resorts and hotels situated north of the Ellison Onizuka International Airport at Keahole which represents more than 3,500 hotel and timeshare accommodations and an equal number of resort residential units. KCRA member properties annually pay more than \$20 million in TAT and \$20 million in GET.

Sincerely,

A handwritten signature in black ink that reads "Stephanie P. Donoho".

Stephanie Donoho
Administrative Director

SB-666-HD-1

Submitted on: 3/17/2019 4:40:27 PM

Testimony for LAB on 3/19/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Gordon Takaki	Hawaii Island Chamber of Commerce	Support	No

Comments:

The Hawaii Island Chamber of Commerce strongly supports SB666 SD2 HD1, which authorizes the establishment of the Hawaii Airports Corporation.

An independent corporation would allow for quicker decision making and a streamlined process for budgeting and procurement. It would especially help promote an enhanced experience at the point of entry and departure for residence and visitors.

The Hawaii Island Chamber of Commerce supports the intent of a separate authority to develop, manage, operate and maintain Hawaii's airports. An independent airport corporation such as the one proposed in this bill, is a model that has been proven successful in numerous world-class airports such as San Francisco and Dallas Fort Worth. We believe the establishment of such a corporation would allow for the airport to operate more effectively and efficiently and enable capital improvement projects to be completed in a timely manner. This would greatly benefit travelers to our islands as well as businesses that serve the Hawaii hospitality and tourism market.

An independent airport corporation will provide a long-term vision for Hawaii's airports and be able to execute critical capital improvement programs. Hawaii is one of only three states that still operate airports. Most airports are operated by authorities or corporations. It is proven that airport authorities can develop and implement policies and procedures designed to deliver uniquely complex airport capital programs more effectively, while retaining full public transparency and accountability.

Thank you for the opportunity to provide comments in Support of SB66 SD2 HD1.



March 17, 2019

RE: SB666 SD2 HD1 RELATING TO AN AIRPORTS CORPORATION

Dear Chair Ling Johanson and the Committee on Labor and Public Employment,

The Kona-Kohala Chamber of Commerce is in support of SB666 SD2 HD1 RELATING TO AN AIRPORTS CORPORATION that authorizes the establishment of the Hawai'i Airports Corporation (HAC).

We believe this corporation will improve administrative efficiency by streamlining processes, accelerate the planning and implementation of the state airports' capital improvement programs and increase the financial flexibility of airports in the state. In addition, we believe the HAC will be more responsive to consumer needs, increase job creation and maximize economic opportunities for the State of Hawai'i.

The Kona-Kohala Chamber of Commerce is a 501(c)(6) non-profit organization with nearly 500 member businesses that represent a wide range of industries in the private, non-profit and public sectors in the Kona and Kohala districts on the West side of the island of Hawai'i. Our members range in size from small businesses with less than 10 employees to large corporations with over 1000 employees. Our organization exists to provide leadership and advocacy for a successful business environment in West Hawai'i.

Since our founding in 1968, the Kona-Kohala Chamber of Commerce has advocated for airport improvements. Enabling more efficient airport management, operations and maintenance is essential to the economic prosperity of our region and the State of Hawai'i. We believe an airport corporation will benefit resident and visitor travel, provide needed infrastructure to support a prosperous business environment and ultimately, strengthen our local economy.

Sincerely,

A handwritten signature in black ink that reads "Wendy J. Laros". The signature is written in a cursive, flowing style.

Wendy J. Laros
Executive Director, Kona-Kohala Chamber of Commerce



SanHi

GOVERNMENT STRATEGIES
A LIMITED LIABILITY LAW PARTNERSHIP

DATE: March 18, 2019

TO: Representative Aaron Ling Johanson
Chair, House Committee on Labor & Public Employment
Submitted Via Capitol Website

RE: **SB 666 S.D. 2, H.D. 1 – Relating to An Airports Corporation**
Hearing Date: Tuesday, March 19, at 9:30 a.m.
Conference Room: 309

Dear Chair Johanson, Vice Chair Eli and Members of the House Committee on Labor & Public Employment:

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

Enterprise **supports** S.B. 666 S.D. 2, H.D. 1, which would authorize the establishment of the Hawaii airport corporation within the Department of Transportation. Enterprise believes it is important to establish an independent airport authority to oversee the transformation of our state airports into world class facilities. A single entity with consolidated jurisdiction over the development, management and operation of Hawaii's airports would streamline processes and improve efficiencies. This would greatly benefit travelers to our islands, as well as all businesses that serve the Hawaii hospitality and tourism market.

For these reasons, we support S.B. 666 S.D. 2, H.D.1, and respectfully request that the Committee pass this measure. Thank you for the opportunity to submit this testimony.



TESTIMONY TO THE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

Tuesday, March 19, 2019, 9:30 a.m.

State Capitol, Conference Room 309

TO: The Honorable Aaron Ling Johanson, Chair
The Honorable Stacelynn K.M. Eli, Vice Chair
Members of the Committee on Labor and Public Employment

TESTIMONY ON SB666, SD2, HD1 RELATING TO AN AIRPORTS CORPORATION

I am Peter Ho, Chairman, President and CEO of Bank of Hawaii, testifying in support of the establishment of an Airports Corporation, but opposed to the current HD1 draft legislation. As stated in the bill, its purpose is to establish the Hawaii airports corporation, which shall assume all of the authority, powers, functions, duties and responsibilities of the Department of Transportation related to aeronautics and airports, including responsibility for the development, management, operation and maintenance of the State's airports.

While we appreciate and welcome the ongoing efforts to address the state's long standing challenges facing our statewide airport system, we believe that making the Corporation subject to 103D significantly limits its ability to operate in the most efficient manner possible. We respectfully ask that the Committee restore the SD2 language, which also allowed for the appropriation of lump sum funding for the Corporation's budget.

Our airports cannot remain underappreciated assets and deserve the focus and attention that an Airports Corporation could offer. The Corporation, which would be led by a board with the requisite professional expertise, can provide the important oversight and management structure needed to help ensure projects are undertaken and completed in an efficient and cost-effective manner along with the necessary public transparency and accountability.

I respectfully ask for your consideration in amending this bill to reflect the SD2 version. Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads 'Peter Ho'.



AIRPORT CONCESSIONAIRES COMMITTEE

Honorable Aaron Ling Johanson, Chair
Committee on Labor & Public Employment
House of Representatives
State of Hawaii

Hearing: March 19, 2019; 9:30 am, Room 309

Re: S.B. 666, HD1 – Relating To An Airport Corporation

Dear Chair Johanson and Honorable Members of the Committee:

My name is Peter Fithian and I am the Legislative Chair for the Airports Concessionaires Committee whose membership consists of major and minor concession operators at Hawaii's public airports. Airport concessions have historically contributed about 50% to 75% of the operating revenues for Hawaii's airport system which as you know is special funded.

OVERVIEW Our Committee while strongly supporting the Airport Corporation efforts, opposes recent amendments including those:

1) seeking to apply the requirements of Chapter 104 to the Corporation which will among other negative impacts drive up the costs of concession improvements and doing business at public airports. Chapter 104 was intended for public work projects paid for by taxpayer dollars and not our public airports that are required to "generate its own revenues to survive" via special funds. Why is this burden being added to public airports?

2) targeting just airport businesses is not fair. Requiring on airport-businesses to follow such union-related requirements such as "labor peace" will drive up the costs of doing business. Also, there is no assurance of labor peace and as we all know if a union is in disagreement and not getting its way "it will strike"; and

3) such added requirements burdening airport businesses will result in less revenues for our airport system seeking to raise over \$1 billion dollars for further airport improvements in the next 5 to 10 years. Business will prefer to do business off airports rather than on airports and those doing business on airports will have less revenues to share/pay to Hawaii's DOT. Thus, less revenues to support Hawaii's Airport operations and infrastructure costs.

UNION PROPOSAL RESULT = LESS REVENUES FOR AIRPORTS

Common sense --- The greater the cost and burden of doing business, the less rent a business will have to pay its landlord.

Union proposal unfairly seeks to single out and burden airport businesses which in turn will result in such businesses paying less rent to the landlord (DOT-Air, Hawaii). Again common sense, the greater the costs and burdens of doing business the less revenues a business has left to share with its landlord (DOT-Air, Hawaii). As explained below, this will impact the Airport's self-funding business model.

HAWAII AIRPORT SYSTEM UNIQUE; NOT LIKE U.S. MAINLAND HUB AND BIG-CITY AIRPORTS

Our airport system is self-funding (no taxpayer support) and in critical need of monies for airport improvements throughout our island state. Given DOT-Air's need to maximize revenues it doesn't make sense to single-out and place such costs and burdens only on airport businesses which will result in less revenues to the DOT.

Also, Hawaii's airport system is an island-airport-system that is very costly to maintain since we are an island-State. Our airport system also does not generate significant revenues like many US mainland airports that are hub-commuter-major-city airports. Just because some U.S. mainland airports can implement some programs does not mean Hawaii airports can afford to do what the Union is proposing or that it makes sense or fair for Hawaii to follow mainland airports.

2 OF 3 MAJOR UNION GOALS DO NOT REQUIRE LEGISLATION

As to "labor peace" --- this is a nice term but there is not such assurance. If union does not get its way it will strike. We all know that. Further this is a provision typically part of any collective-bargaining agreement negotiated by union members. But again as we all know. If a union doesn't get its way it will strike.

As to "labor retention" --- that is something best and most efficiently determined by "practical-business-circumstances". For example, an employee typically does not choose to remain with an airport business failing in its sales of "nuts and candies" which soon will be replaced by a new business selling woman's apparel and accessories". Such employee would typically choose to move to another business before the nuts and candies business closes. Likewise, the new retailer selling woman's apparel would likely not seek to hire someone with experience primarily selling nuts and candies. In addition, an employer always seeks to retain and if possibly take with him employees required for any new business. To require a retailer to retrain an employee with experience selling only one category of merchandise to sell another takes time, is costly and often is not always successful as we all know.

LIVING WAGE DEFINITION BY LEGISLATURE

As to "living wage" --- what does the Legislature define that to mean? Airport businesses should not be required to bear such added burdens and costs not required of other similarly situated businesses.

GENERALLY AS TO THE AIRPORT CORPORATION CONCEPT

This bill is important since we all know, change for the better is not going to happen unless changes are made. Let's please seek to bring about such change. It's been too long and the inefficiencies and delays and loss of revenues must be improved upon. No government agency is always perfect. A new organization structure such as an Airport Corporation will be a big step in the right direction as documented by many public airports across the United States.

The current approval process is simply too long and results in delays/reviews each step of the way such as at times with the Department of Accounting and General Services, Department of Budget and Finance, Department of Land and Natural Resources, Department of Attorney General and/or other State Departments

As a result it's not unusual for final approvals to take 9 months, 12 months, 18 months and at times longer before a final approval is granted. Such approvals typically are granted in about 3-4 months in the private-business sector.

We urge you to support the Airport Corporation which is an organizational structure that many airports across the United States find as a more efficient means of operating and managing the variety of business, needs and demands at their airports.

Finally, we note the Corporation will have a total of 9 voting members. We thank you for including the discipline of "non-aviation-airport business" as the background for a member on the Board of Directors for the Corporation. Unless you otherwise inform us we understand such language will allow for the consideration of someone with a background in airport-concession business to be on the Board which is very important in our view given the sizeable revenues generated by concessions for our public airports. Running a concession business at a public airport has security and many other unique challenges similar businesses off airport do not experience. We note the bill also recognizes the discipline of "aviation" which we understand to be for a person with a background in the airline industry.

Thank you for allowing us to testify.

SB-666-HD-1

Submitted on: 3/15/2019 7:56:30 PM

Testimony for LAB on 3/19/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Arbeit	Individual	Support	No

Comments:

It's about tiime. Our airport is a disgrace compared to most overseas ones. Even train stations in China and Japan are superior. Clearly the way our airports have been run hasn't worked. Time to change to a mode independent of State red tape and constraints and, hopefully, with more transparency.

SB-666-HD-1

Submitted on: 3/16/2019 1:35:13 PM

Testimony for LAB on 3/19/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Oppose	No

Comments:

I oppose SB666 SD2 HD1 because it does not name the Office of Hawaiian Affairs a seat on the Board of Directors.

SB-666-HD-1

Submitted on: 3/17/2019 11:51:14 AM

Testimony for LAB on 3/19/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Miyahira	Individual	Support	No

Comments:

SB-666-HD-1

Submitted on: 3/17/2019 11:05:46 PM

Testimony for LAB on 3/19/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Steve Ueda	Individual	Support	No

Comments:



ELECTRICAL CONTRACTOR'S ASSOCIATION OF HAWAII

NECA Hawai'i Chapter
1286 Kalani Street, Suite B-203
Honolulu, Hawai'i 96817
PH: (808) 847-7306
FX: (808) 841-8096
Email: ecah@ecahi.com

LATE



March 18, 2019

To: House Committee on Labor & Public Employment
Honorable Chairperson Aaron Johanson and Vice Chair Stacelynn Eli

From: Al Itamoto, Executive Director
Electrical Contractors Association of Hawaii
National Electrical Contractors Association, Hawaii Chapter

Subject: SB 666, SD2, HD1, Relating to an Airports Corporation

Notice of Hearing

Date: Tuesday, March 19, 2019
Time: 9:30 AM
Place: Conference Room 309
State Capitol
415 South Beretania Street

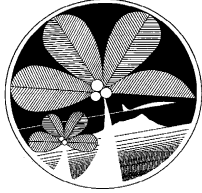
Dear Chairs Johnanson, Eli and Committee members:

The Electrical Contractors Association of Hawaii (ECAH) is a non-profit association representing over 100 electrical contractors doing business in the State of Hawaii. ECAH is the Hawaii Chapter of the National Electrical Contractors Association (NECA). ECAH **Fully Support** the passage of SB 666, SD2, HD1. We agree that it would be beneficial to establish the Hawaii Airports Corporation (Corporation) which shall assume all the authority, powers, functions, duties and responsibilities of the Department of Transportation related to aeronautics and airports, and ensures that its operation is conducted with a fair, transparent and fully accountable procurement process with the inclusion of the provisions of Chapter 103D, the procurement code and specifically, require the listing of Joint and subcontractors.

The inclusion of CH 104 also insures that fair wages and benefits are paid to workers of the contractor and subcontractors on the airport projects. Based on the above, ECAH **Fully Supports** SB666, SD2, HD1 and encourages this committee to pass this measure as written.

Thank you for the opportunity to provide testimony on this issue.

AIRLINES COMMITTEE OF HAWAII



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

LATE

March 19, 2019

Representative Aaron Ling Johanson, Chair
Representative Stacelynn Eli, Vice Chair
House Committee on Labor & Public Employment

Re: SB 666 SD2 HD1 - RELATING TO AN AIRPORTS CORPORATION
Conference Room 309; 9:30 AM

Aloha Chair Johanson, Vice Chair Eli and members of the Committee,

The Airlines Committee of Hawaii (ACH), which is comprised of the 19 signatory air carriers that underwrite the State Airport System, supports the concept of an airports corporation but is in opposition of the current draft of SB 666, as the provisions necessary to execute critical capital improvement programs in a timely and efficient manner were removed, and other additional amendments make it impracticable. We urge you to consider amending back to the SD2.

The current process of submitting a line by line budget makes it difficult to resolve unexpected situations that may arise in a timely manner such as the baggage handling systems improvement project at HNL and the start and stop of the Mauka Concourse project. The customer experience is always top of mind with the airlines and we would like to avoid passengers being inconvenienced by antiquated and subpar facilities. One lump sum for capital projects and one lump sum for operating gives the Corporation the flexibility it needs to reallocate and adjust priorities, as necessary, and take advantage of market opportunities.

The ACH strongly believes the ability for the Corporation to develop its own procurement policies and procedures is imperative to achieve the anticipated benefits of having a Hawaii Airports Corporation (HAC). The current procedures impose undue delay and process complexity and as a consequence, have delayed needed airport projects, with negative impacts on job creation and economic development. The protest adjudication process must be contained within the Corporation and more reasonable criteria established to discourage frivolous protests which routinely delay procurement processes.

Unlike other State departments and authorities, the airports are self-sustaining and must meet stringent operating, safety and security standards 365 days per year. No State general funds are used for Hawaii's airports and the HAC will not require any. It will be fully funded by user fees and underwritten by the airlines serving the State's airport system.

Hawaii is one of only three states that operate airports. Most U.S. airports are operated by authorities or corporations or a hybrid of the same. It is proven that airport authorities can develop and implement policies and procedures designed to deliver uniquely complex airport capital programs more effectively, while retaining full public transparency and accountability.

Hawaii's airports are inferior to other airports serving leading travel destinations. An airports corporation will increase responsiveness to consumer needs, commercial opportunities and economic demands through dedicated expert airport leadership, management continuity and year-round decision-making, consistent with industry best practices.

The HAC will be a highly regulated and scrutinized organization. It will be reviewed and certified by the Federal Aviation Administration (FAA). The FAA also imposes many regulatory requirements on airports and consistently monitors compliance. The Corporation will have an audit requirement under federal law.

The current system is not suited to manage the unique needs of a modern, international airport system. A Hawaii Airports Corporation will ensure that Hawaii's airports are competitive with the world's best airports, reflect the very best of our state and our culture, and exceed the expectations of airport users. An airport system developed to achieve its full potential, expediting delivery of its capital program, would increase the airports' contribution to the state's economy, create new jobs and better support the needs of tourism, interisland commerce and connectivity. For these reasons, we respectfully request your consideration in amending SB 666 to the SD2 version of the bill. Thank you.

Sincerely,

Blaine Miyasato
ACH Co-chair

Matthew Shelby
ACH Co-chair

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



LATE

**TESTIMONY TO THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT
State Capitol, Conference Room 309
415 South Beretania Street
9:30 AM**

March 19, 2019

RE: SENATE BILL NO. 666 SD 2, HD 1, RELATING TO AN AIRPORTS CORPORATION

Chair Johanson, Vice Chair Eli, and members of the committee:

My name is Gladys Quinto Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

BIA-Hawaii **supports the intent** of S.B. 666, SD 2, HD 1, which would authorize the establishment of the Hawaii Airport Corporation within the Department of Transportation for administrative purposes. The bill sets out appointment of members to the board of directors and powers and duties of the Hawaii Airport Corporation, and transfers the aeronautics functions of DOT to the Hawaii Airport Corporation. The bill also subjects the Hawaii Airport Corporation to the Hawaii procurement code, and requires the Hawaii Airport Corporation to set rates and determine costs based on the residual method. Finally, the bill subjects the Hawaii Airport Corporation board and CEO to financial disclosure requirements.

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

An Airport Corporation would allow for:

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



The proposed Airport Corporation would also be in a better position to enter into Public-Private-Partnerships (P3s) which would allow for private investment to improve airport facilities across the state. We understand that nationally, P3's involving airports have become an attractive potential investment to private investors, which may result in mixed-use development being included in the airport modernization plan.

Also, one of the more compelling arguments to create an Airport Corporation is that currently, airports does not use any taxpayer funds. All funds used in the airport operations are derived from user fees and assessments within the airport properties. Having the users more involved in the oversight of airport improvements would provide more accountability in how the fees and assessments are being spent.

The latest amendments to the bill require the proposed Airports Corporation to comply with the State Procurement Code, and establishes the methodology for how rates and costs will be determined. The amendments also require the proposed Airports Corporation to be subject to the legislative budget process.

We understand the desire of the legislature to provide more oversight on the proposed Corporation; however, these additional oversight requirements need to be balanced with the intent of the legislation to create a more independent department, and what would appear to be a market-driven approach towards the management of airports in Hawaii. The recent amendments do not appear to create the type of airport authority originally envisioned in the bill.

We support the intent of S.B. 666 SD 2, HD 1, but would prefer the language in S.B. 666 SD 2. We appreciate the opportunity to provide our input on this important legislation.



LATE

Maui Hotel & Lodging

ASSOCIATION

Testimony of

Lisa H. Paulson

Executive Director

Maui Hotel & Lodging Association

on

SB 666 SD2 HD1

Relating To An Airports Corporation

COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

Tuesday, March 19, 2019, 9:30 am

Conference Room 309

Dear Chair Johanson, Vice Chair Eli and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes 195 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 25,000 residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

MHLA is **offering comments for SB 666 SD2 HD1**, which authorizes establishment of the Hawaii Airports Corporation (HAC) within the Department of Transportation for administrative purposes. Sets out appointment of members to the board of directors and powers and duties of HAC. Transfers aeronautics functions of the Department of Transportation to HAC. Makes HAC subject to Hawaii procurement code. Requires HAC to set rates and determine costs based on the residual method. Subjects HAC board and CEO to financial disclosure requirements. Appropriates funds. (SB666 HD1)

MHLA supports the concept of an airports corporation but is in opposition of the current draft of SB 666, as the provisions necessary to execute critical capital improvement programs in a timely and efficient manner are not included and other additional amendments make it impracticable. We urge you to consider amending back to the SD2.

Hawaii's airports are self-sustaining. State general funds are not used for Hawaii's airports and the Hawaii Airport Corporation (HAC) will not require any. It will be fully funded by user fees and underwritten by the airlines serving the State's airport system.

An independent airport corporation will provide a long-term vision for Hawaii's airports and be able to execute critical capital improvement programs in a timely and efficient manner. Hawaii is one of only three states that still operate airports. Most U.S. airports are operated by authorities or corporations. It is proven that airport authorities can develop and implement policies and procedures designed to deliver uniquely complex airport capital programs more effectively, while retaining full public transparency and accountability.

The first and last impressions of our visitors occur at our airports. The hospitality industry's continued progress is very dependent on the quality of our airports. It is vital that we improve upon the service, infrastructure, and

overall development of such a vital entity. We support the airport corporation as a single entity to oversee our airport's planning, management, marketing and development.

Thank you for the opportunity to testify. We respectfully request your consideration in amending SB 666 to the SD2 version of the bill.

Hawai'i Construction Alliance

LATE

P.O. Box 179441
Honolulu, HI 96817
(808) 220-8892

March 19, 2019

The Honorable Aaron Johanson, Chair
The Honorable Stacelynn K.M. El , Vice Chair
and members
House Committee on Labor
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: Comments for SB666, RELATING TO AN AIRPORTS CORPORATION

Dear Chair Johanson, Vice Chair Eli, and members:

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Laborers' International Union of North America, Local 368; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; and the Operating Engineers, Local Union No. 3. Together, the member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the basic crafts of Hawai'i's construction industry.

While we understand the need for a separate entity in to direct construction and improvement projects at our airports, we also would like to point out that many of the Airports Corporations in other jurisdictions have also negotiated Project Labor Agreements (PLAs) with the respective construction unions in that area.

SB666 does not currently contain a PLA requirement, which means that there is no guarantee that a work stoppage could be dealt with in a expedient manner, and that these jobs are not reserved for local workers.

PLAs ensure that projects continue even if there is a labor dispute among the workers on site and ensure that local workers are utilized on these critical infrastructure jobs.

I would think that the Legislature is in favor of facilitating the smooth flow of projects without disruption, and that local construction workers would be given preference to work on a project when their tax dollars are being used to fund the job.

Therefore, we ask for your committee's favorable action on our comments about **SB666**.

Mahalo,

A handwritten signature in black ink, appearing to read "Nathaniel Kinney". The signature is fluid and cursive, with a large, stylized initial 'N' and 'K'.

Nathaniel Kinney
Executive Director
Hawai'i Construction Alliance
execdir@hawaiiconstructionalliance.org

A BILL FOR AN ACT

RELATING TO AN AIRPORTS CORPORATION.

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

SECTION 1. The legislature finds that the well-being of the State is substantially dependent on the efficient administration, development, management, and operation of its airports and air transportation infrastructure. The legislature further finds that responsibility for Hawaii's airport planning, management, marketing, and capital development functions is currently distributed among a number of agencies, including the department of transportation's airports division; Hawaii tourism authority; department of budget and finance; department of human resources development; board of land and natural resources; department of health, with respect to environmental concerns; and office of Hawaiian affairs, with respect to ceded land issues; among others. Distributed responsibility and involvement by multiple agencies, which sometimes have conflicting goals and priorities, results in inefficiency, delayed decision-making, and reduced effectiveness. The legislature believes that coordinated planning and development of the State's air transportation system and infrastructure

would be achieved more effectively by establishing and giving a separate state entity overall jurisdiction and responsibility for aeronautics and the State's airports.

The legislature further finds that the establishment of a separate airports corporation would assist in the achievement of the following important statewide objectives:

- (1) Maximizing the contribution of the State's airports to Hawaii's economy;
- (2) Ensuring dedicated expert airport leadership, management continuity, and year-round decision-making, consistent with industry best practices;
- (3) Improving administrative efficiency by streamlining administrative processes;
- (4) Accelerating the planning and implementation of the state airports' capital improvement programs;
- (5) Increasing the financial flexibility and strength of the State's airports;
- (6) Increasing economic opportunities for the State, in collaboration with the Hawaii tourism authority;
- (7) Increasing responsiveness to consumer needs, commercial opportunities, and economic demands; and
- (8) Maximizing job creation within the State.

In addition, the management and administration of scarce and increasingly valuable airport resources is most effectively served by a separate airports corporation.

The purpose of this Act is to establish the Hawaii airports corporation, which shall assume all of the authority, powers, functions, duties, and responsibilities of the department of transportation related to aeronautics and airports, including responsibility for the development, management, operation, and

maintenance of the State's airports, on and after the transfer completion date announced by the Hawaii airports corporation pursuant to section 19(b) of this Act.

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

"CHAPTER

HAWAII AIRPORTS CORPORATION

PART I. GENERAL PROVISIONS

§ -1 Definitions. As used in this chapter:

"Aircraft" shall have the same meaning as defined in section 261-1.

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

"Airport" shall have the same meaning as defined in section 261-1.

"Airport revenue" means all moneys paid into the airport revenue fund pursuant to section 261-5(a).

"Airports corporation" or "corporation" means the Hawaii airports corporation established by this chapter.

"Chief executive officer" means the chief executive officer of the Hawaii airports corporation.

"Project Labor Agreement" means a pre-hire collective bargaining agreement with labor organizations that establishes the terms and conditions of employment for a specific construction project that set forth effective and, immediate, and mutually binding procedures for resolving jurisdictional

labor disputes and labor grievances, contain guarantees against strikes, lockouts, or similar action, and permit the selection of the lowest qualified responsible bidder, without regard to union or non-union status at other construction sites.

§ -2 Airports corporation; establishment; board; members; chief executive officer. (a) There is established the Hawaii airports corporation to:

(1) Develop and implement management structures, policies, and procedures based on airport industry best practices;

(2) Efficiently develop, manage, operate, and maintain the State's airports and aeronautical facilities; and

(3) Administer the provisions of chapters 102, 261, 261D, and 262 that are applicable to airports and aeronautical facilities. The corporation shall be a body politic and corporate, and an instrumentality and agency of the State, placed within the department of transportation for administrative purposes only, and shall enjoy the same sovereign immunity available to the State. The corporation shall not be subject to supervision by the department of transportation or its director and shall be exempt from section 26-35(a)(1), (4), (5), and (6).

(b) The powers of the airports corporation shall be vested in and exercised by a board of directors that shall consist of nine voting members; provided that:

(1) The members shall be appointed by the governor as provided in section 26-34, except as provided by this section;

(2) The members shall include at least one resident each from the city and county of Honolulu and the counties of Hawaii, Kauai, and Maui;

(3) Two members shall be appointed by the governor from a list of names submitted for each appointment by the president of the senate, and two members shall be appointed by the governor from a list of names submitted for each appointment by the speaker of the house of representatives; provided that each list of names shall contain at least three names and shall include two names that qualify to fill any county-specific vacancy, as appropriate; and

(4) Notwithstanding the state residency provisions of section 78-1(b), there shall be no more than two members who are non-residents of the State on the board at any time.

Notwithstanding section 26-34, appointments to the board shall not be subject to the advice and consent of the senate.

(c) Members shall have relevant business and management experience, including experience in one or more of the following disciplines: financial planning, budgeting, hospitality, tourism, commercial development, construction, marketing, law, aviation, non-aviation airport business, or the cultural traditions and practices of native Hawaiians. It is the intent of the legislature that there shall be, as far as practicable, a wide cross-section of these disciplines represented by the board.

(d) Members shall be appointed by the governor for terms of four years. Notwithstanding section 26-34(a) and (b), all members of the board shall continue in office until their respective successors have been appointed; provided that no member shall serve more than eight consecutive years.

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

(f) Each board member shall serve without compensation, but shall be reimbursed for necessary expenses, including travel expenses, incurred in the performance of their duties.

(g) The board of directors of the airports corporation shall appoint a single executive to be known as the chief executive officer of the Hawaii airports corporation, who shall:

- (1) Not be a member of the board;
- (2) Be exempt from chapters 76 and 89; and

(3) Receive a salary fixed by the board.

(h) The chief executive officer:

(1) Shall be selected based on criteria approved by the board, including experience in airport management at an executive level at a large-hub or medium-hub airport within the United States, management of large-scale capital programs, and domestic and international air service development;

(2) Shall be appointed by an affirmative vote of not less than five members of the board;

(3) Shall be employed subject to a formal contract, the terms of which shall be approved by the board; provided that the terms shall include provisions for the removal of the chief executive officer whether with or without cause;

(4) May be removed from office only by a vote of not less than five members of the board; provided that the basis for removal is consistent with the terms of the chief executive officer's employment contract;

(5) Shall have the powers as described in this chapter and the provisions of chapters 102, 261, 261D, and 262 that are applicable to airports and aeronautical facilities, as may be delegated by the board;

(6) Shall, except when excused by the board, attend all meetings of the board, keep a record of the proceedings, and maintain and be the custodian of the official seal of the corporation and all books, records, documents, and papers filed with the corporation;

(7) Shall direct and supervise the corporation's administrative and operational affairs in accordance with the directives of the board;

(8) Shall approve all accounts for salaries and allowable expenses of the corporation; and

(9) Shall do all things necessary, as directed by the board, to carry out the powers and duties conferred upon the corporation by this chapter and the provisions of chapters 102, 261, 261D, and 262 that are applicable to airports and aeronautical facilities.

(i) Upon the vacancy of the position of the chief executive officer, the board of directors shall designate a deputy executive officer or other employee of the corporation to serve as the chief executive officer of the corporation until the vacancy is filled by the board. This interim chief

executive officer shall have all of the powers and responsibilities, and receive the salary, of the chief executive officer.

(j) The number of members of the board necessary to constitute a quorum to do business shall be five members, and unless specified elsewhere in this chapter, the concurrence of five members of the board shall be necessary to make any action of the board valid.

§ -3 Powers; generally. (a) The Hawaii airports corporation, by and through its board of directors:

(1) Shall exercise power and control over all airports, air navigation facilities, buildings, and other facilities that the corporation is responsible for managing, operating, or controlling under this chapter and the provisions of chapters 102, 261, 261D, and 262 that are applicable to airports and aeronautical facilities;

(2) Shall provide as appropriate for the landing, taking-off, and servicing of aircraft, and the loading and unloading of passengers and cargo at all airports under the control of the corporation;

(3) Shall establish performance targets and performance standards for all state airports to achieve the highest levels of customer service;

(4) Shall ensure that appropriate mission statements, business plans, minimum development standards, and strategic goals are established and that progress towards their accomplishment is regularly assessed and reported;

(5) Shall develop an organization and management structure to best accomplish the goals of the Hawaii airport system and the corporation;

(6) Shall be subject to the provisions of chapter 103D and chapter 104; provided that any offeror of food and beverage or retail concession services shall have an agreement with any labor organization which represents airport terminal concession employees in this State that is valid and enforceable under title 29 United States Code, section 185(a) and that prohibits any strikes, picketing, or other economic interference with the business of the offeror for the duration of the offeror's contract to operate the concession, including renewal or extension, and binds any successors to an original offeror; further provided any contractor furnishing construction work on all airports, air navigation facilities, buildings, and other facilities that the corporation is responsible for managing, operating, controlling, including construction work that will be

undertaken in or on buildings, land, owned by and leased from the corporation, shall enter into a project labor agreement.

(7) Shall have an official seal and may alter the official seal at its pleasure;

(8) May make, execute, or assume contracts, leases, and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter and the provisions of chapters 102, 261, 261D, and 262 that are applicable to airports and aeronautical facilities;

(9) Shall establish bylaws for its organization and internal management;

(10) Shall adopt rules pursuant to chapter 91 as necessary to implement this chapter and the provisions of chapters 102, 261, 261D, and 262 that are applicable to airports and aeronautical facilities;

(11) Shall prepare and adopt the corporation's operating and capital improvement budgets;

(12) May own, purchase, lease, exchange, or otherwise acquire property, whether real, personal, or mixed, tangible or intangible, and any interest therein, in the name of the corporation, and may assign, exchange, transfer, convey, lease, sublease, or encumber the same or any project, improvement, or facility related thereto; provided that the lands to which the corporation holds title shall not be subject to chapter 171; provided further that any sale, gift, or exchange of real property shall be subject to the terms, conditions, and restrictions applicable to the sale, gift, or exchange of public lands in section 171-50 and 171-64.7; provided further that any lease, sublease, permit, or other encumbrance for any real property shall be issued in accordance with administrative rules adopted by the corporation pursuant to chapter 91;

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

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

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

(16) Shall assume from the department of transportation:

(A) That:

(i) Certain Certificate of the Director of
Transportation Providing for the Issuance of
State of Hawaii Airports System Revenue

- Bonds dated as of May 1, 1969, relating to certain revenue bonds and other obligations;
- (ii) Certain Indenture of Trust dated as of December 1, 2013, between the department of transportation and U.S. Bank National Association relating to certain certificates of participation; and
 - (iii) Certain Indenture of Trust dated as of August 1, 2014, between the department of transportation and MUFG Union Bank, N.A., relating to certain customer facility charge revenue bonds, each as supplemented and amended to date; and
- (B) The bonds, notes, and other obligations of the department of transportation outstanding under, as well as the covenants, restrictions, and other requirements set forth in, those documents;

(17) Shall adopt policies and procedures designed to ensure continuing compliance with the terms of the documents in paragraph (16) for so long as they are applicable;

(18) Shall fix, impose, prescribe, and collect rates, rentals, fees, or charges for the lease, use, and services of its airport facilities at least sufficient to pay the costs of operation, maintenance, and repair, if any, and the required payments of the principal of and interest on all bonds, notes, or other obligations issued or assumed by the airports corporation and reserves therefor; provided that the rates, rentals, fees, or charges are established at an open meeting subject to the requirements of chapter 92;

(19) Subject to the provisions of the documents assumed by the corporation under paragraph (16)(A), may allot any and all airport revenue and issue revenue bonds, refunding revenue bonds, special facility revenue bonds, bond anticipation notes, and other lawfully authorized obligations of the State in its name and secured by the revenue, or user taxes, or any combination of both, of an undertaking or loan program pursuant to chapter 39, but not in excess of the principal amounts as are necessary for its purposes;

(20) May invest and secure its moneys;

(21) May exercise the power of eminent domain pursuant to chapter 101 and in accordance with sections 261-31 to 261-36, to acquire real property for the corporation with which to carry out this chapter and the provisions of chapters 102, 261, 261D, or 262 that are applicable to airports and aeronautical facilities;

(22) Shall establish and maintain an appropriate system of accounts for the corporation; and

(23) May do any and all things necessary to exercise the powers and perform the duties conferred upon the corporation by this chapter and the provisions of chapters 102, 261, 261D, and 262 that are applicable to airports and aeronautical facilities.

(b) The corporation shall not be subject to chapters 36, 37, 37D, 38, and 40, except for section 36-28.5 and as otherwise provided in this chapter and chapter 261.

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

The board of directors, upon the advice of its attorney, may arbitrate, compromise, or settle any claim, action, or suit brought against the airports corporation pursuant to this

section. Any claim compromised or settled under this subsection shall be payable solely from the moneys and property of the airports corporation and shall not constitute a general obligation of the State or be secured directly or indirectly by the full faith and credit of the State or the general credit of the State or by any revenue or taxes of the State. Nothing in this subsection shall preclude the board of directors from requesting legislative appropriations to fund the settlement of any claim or judgment against the airports corporation or its officers, employees, or agents.

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

(d) The corporation shall be a "jurisdiction" and an "appointing authority" under chapter 76 and an "appointing authority" and an "appropriate authority" for those of its officers and employees who are excluded employees under chapter 89C. In addition to its chief executive officer, the corporation may employ executive officers, including a chief procurement officer, appointed by the chief executive officer who are qualified to fill positions established in the bylaws of the corporation adopted by the board of directors, to perform functions and exercise powers assigned by the bylaws or

delegated by the board or the chief executive officer. The other executive officers of the corporation, and up to fifteen additional specially qualified employees appointed by the chief executive officer shall be exempt from chapters 76 and 89. All other persons employed by the corporation shall be subject to chapters 76 and 89, and rules adopted to implement those provisions, unless expressly exempted from the civil service under chapter 76 or excluded from collective bargaining under chapter 89. The officers and personnel of the corporation shall be included in all benefit programs applicable to officers and employees of the State.

(e) The corporation and its corporate existence shall continue until terminated by law; provided that no termination shall take effect as long as bonds or other obligations issued or assumed by the corporation are outstanding, unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the corporation, all of the rights and properties of the corporation then remaining shall pass to and vest in the State in the manner prescribed by law.

PART II. BUDGET AND FINANCE

§ -11 Exemptions. The airport revenue fund, passenger facility charge special fund, and rental motor vehicle customer facility charge special fund shall be exempt from chapters 36, 37, 37D and 40.

§ -12 Fiscal provisions. (a) The corporation's board of directors shall establish guidelines for preparing the

corporation's annual operating and capital improvement budget proposals that take into account anticipated receipts, surpluses, reserves, and funds from any other source, on deposit in or available for deposit into the airport revenue fund, the passenger facility charge special fund, the rental motor vehicle customer facility charge special fund, or any other special or revolving fund that the legislature may establish for the corporation.

(b) The corporation shall submit its biennium and supplemental operating and capital improvement budget proposals to the department of transportation, which shall transmit those budget proposals to the governor.

(c) Along with its budget proposals, the corporation shall provide an annual report of the income to and the expenditures from the airport revenue fund, the passenger facility charge special fund, the rental motor vehicle customer facility charge special fund, and any other special or revolving fund administered by the corporation. The corporation shall provide a copy of its annual report to the legislature at least twenty days prior to the convening of each regular session.

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

§ -13 Budget oversight. The corporation's operating and capital improvement budgets shall be subject to review or approval by the governor or any agency of the executive branch, except where state general funds are requested.

§ -14 Accounts; depositories. (a) Appropriations for the corporation shall not be subject to any allotment system or requirements. The director of finance shall notify the corporation and comptroller that all of the appropriations for the corporation for the fiscal year have been allotted and are available for expenditure as soon as possible, and in no event more than three business days, after the general or supplemental appropriation act is effective.

(b) Moneys in the airport revenue fund, passenger facility charge special fund, and rental motor vehicle customer facility charge special fund may be deposited in depositories other than the state treasury; provided that the airports corporation consults with the director of finance before selecting such a depository for the corporation's funds, and submits copies of annual statements from each of the depositories in which the moneys from the funds are deposited.

§ -15 Expenditures in excess of appropriations. If in any fiscal year the amount of revenues deposited into the airport revenue fund exceeds the amount appropriated from that fund for that year, the board of directors of the corporation may approve expenditures in excess of the amount appropriated, up to the amount by which revenues for that fund exceed the appropriations from that fund for a fiscal year.

§ -16 Issuance of bonds. On an annual basis, and upon request of the corporation, the legislature may authorize one lump sum for each means or source of funds for each of the following types of bonds to be issued by the

corporation: revenue bonds, refunding revenue bonds, and special facility revenue bonds.

§ -17 Audits. The state auditor shall conduct management and financial audits of the corporation for fiscal year 2023 and every second year thereafter.

§ -18 Rate-setting; methodology. The corporation shall use the residual method when determining overall costs and assigning rates and charges."

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

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

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

The department shall develop and promote ridesharing programs which shall include but not be limited to, carpool and vanpool programs, and may assist organizations interested in promoting similar programs, arrange for contracts with private organizations to manage and operate these programs, and assist in the formulation of ridesharing arrangements. Ridesharing

programs include informal arrangements in which two or more persons ride together in a motor vehicle.

~~[The functions and authority heretofore exercised by the department of public works with respect to highways are transferred to the department of transportation established by this chapter.~~

~~On July 1, 1961, the Hawaii aeronautics commission, the board of harbor commissioners and the highway commission shall be abolished and their remaining functions, duties, and powers shall be transferred to the department of transportation.]"~~

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

1. By amending subsection (a) to read:

"(a) No department of the State other than the attorney general may employ or retain any attorney, by contract or otherwise, for the purpose of representing the State or the department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply to the employment or retention of attorneys:

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

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

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

[~~(22)~~] (23) By a department, if the attorney general, for reasons deemed by the attorney general to be good and sufficient, declines to employ or retain an attorney for a department; provided that the governor waives the provision of this section."

2. By amending subsection (c) to read:

"(c) Every attorney employed by any department on a full-time basis, except an attorney employed by the public utilities commission, the labor and industrial relations appeals board, the Hawaii labor relations board, the office of Hawaiian affairs, the Hawaii health systems corporation or its regional system boards, the department of commerce and consumer affairs in prosecution of consumer complaints, insurance division, the division of consumer advocacy, the University of Hawaii, the Hawaii tourism authority as provided in section 201B-2.5, the office of information practices, the Hawaii airports corporation, or as grand jury counsel, shall be a deputy attorney general."

SECTION 5. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;

- (7) Aloha Tower fund created by section 206J-17;
- (8) Funds of the employees' retirement system created by section 88-109;
- (9) Hawaii hurricane relief fund established under chapter 431P;
- (10) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (11) Tourism special fund established under section 201B-11;
- (12) Universal service fund established under section 269-42;
- (13) Emergency and budget reserve fund under section 328L-3;
- (14) Public schools special fees and charges fund under section 302A-1130;
- (15) Sport fish special fund under section 187A-9.5;
- [E](16)[H]Neurotrauma special fund under section 321H-4;
- [E](17)[H]Glass advance disposal fee established by section 342G-82;
- [E](18)[H]Center for nursing special fund under section 304A-2163;
- [E](19)[H]Passenger facility charge special fund established by section 261-5.5;
- [E](20)[H]Solicitation of funds for charitable purposes special fund established by section 467B-15;
- [E](21)[H]Land conservation fund established by section 173A-5;
- [E](22)[H]Court interpreting services revolving fund under section 607-1.5;
- [E](23)[H]Trauma system special fund under section 321-22.5;
- [E](24)[H]Hawaii cancer research special fund;
- [E](25)[H]Community health centers special fund;
- [E](26)[H]Emergency medical services special fund;
- [E](27)[H]Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- [E](28)[H]Shared services technology special fund under section 27-43;

[(29)] Automated victim information and notification system special fund established under section 353-136;

[(30)] Deposit beverage container deposit special fund under section 342G-104;

[(31)] Hospital sustainability program special fund under [(section 346G-4)];

[(32)] Nursing facility sustainability program special fund under [(section 346F-4)];

[(33)] Hawaii 3R's school improvement fund under section 302A-1502.4;

[(34)] After-school plus program revolving fund under section 302A-1149.5; [and]

[(35)] Civil monetary penalty special fund under section 321-30.2[;]; and

(36) Airport revenue fund.

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year."

SECTION 6. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each special fund, except the:

(1) Special out-of-school time instructional program fund under section 302A-1310;

- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Special funds established by section 206E-6;
- (6) Aloha Tower fund created by section 206J-17;
- (7) Funds of the employees' retirement system created by section 88-109;
- (8) Hawaii hurricane relief fund established under chapter 431P;
- (9) Convention center enterprise special fund established under section 201B-8;
- (10) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (11) Tourism special fund established under section 201B-11;
- (12) Universal service fund established under section 269-42;
- (13) Emergency and budget reserve fund under section 328L-3;
- (14) Public schools special fees and charges fund under section 302A-1130;
- (15) Sport fish special fund under section 187A-9.5;
- [E](16)[H]Neurotrauma special fund under section 321H-4;
- [E](17)[H]Center for nursing special fund under section 304A-2163;
- [E](18)[H]Passenger facility charge special fund established by section 261-5.5;
- [E](19)[H]Court interpreting services revolving fund under section 607-1.5;
- [E](20)[H]Trauma system special fund under section 321-22.5;
- [E](21)[H]Hawaii cancer research special fund;
- [E](22)[H]Community health centers special fund;
- [E](23)[H]Emergency medical services special fund;

[F](24)[H]Rental motor vehicle customer facility charge special fund established under section 261-5.6;

[F](25)[H]Shared services technology special fund under section 27-43;

[F](26)[H]Nursing facility sustainability program special fund established pursuant to [F]section 346F-4[H];

[F](27)[H]Automated victim information and notification system special fund established under section 353-136;

[F](28)[H]Hospital sustainability program special fund under [F]section 346G-4[H]; ~~and~~

[F](29)[H]Civil monetary penalty special fund under section 321-30.2[;]; and

(30) Airport revenue fund.

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned."

SECTION 7. Section 41D-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any provision in this section to the contrary notwithstanding, the Hawaii airports corporation, the University of Hawaii (as to casualty insurance risks only), the Research Corporation of the University of Hawaii (as to casualty insurance risks only), the public health facilities of the department of health (with respect to medical malpractice risks only), and the Hawaii health systems corporation and its regional system boards shall be exempt from the requirements of this chapter."

SECTION 8. Section 76-11, Hawaii Revised Statutes, is amended by amending the definition of "jurisdiction" to read as follows:

"Jurisdiction" means the State, the city and county of Honolulu, the county of Hawaii, the county of Maui, the county of Kauai, the judiciary, the department of education, the University of Hawaii, the Hawaii airports corporation, and the Hawaii health systems corporation."

SECTION 9. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

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

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

(3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;

(4) Positions filled by the legislature or by either house or any committee thereof;

(5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;

(6) Positions filled by popular vote;

(7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;

(8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;

(9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);

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

- (11) (A) Teachers, principals, vice-principals, complex area superintendents, deputy and assistant superintendents, other certificated personnel, not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work;
- (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psychologists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists,

alternative school project coordinators, and communications aides in the department of education;

- (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
- (D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;

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

- (13) (A) Positions filled by inmates, patients of state institutions, persons with severe physical or mental disabilities participating in the work experience training programs;
- (B) Positions filled with students in accordance with guidelines for established state employment programs; and
- (C) Positions that provide work experience training or temporary public service employment that are filled by persons entering the workforce or persons transitioning into other careers under programs such as the federal Workforce Investment Act of 1998, as amended, or the Senior Community

Service Employment Program of the Employment and Training Administration of the United States Department of Labor, or under other similar state programs;

(14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;

(15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;

(16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V, of the Hawaii State Constitution; [~~three~~] two additional deputies or assistants either in charge of the highways[;] and harbors[; ~~and airports~~] divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;

(17) Positions specifically exempted from this part by any other law; provided that:

(A) Any exemption created after July 1, 2014, shall expire three years after its enactment unless affirmatively extended by an act of the legislature; and

(B) All of the positions defined by paragraph (9) shall be included in the position classification plan;

(18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;

(19) Household employees at the official residence of the president of the University of Hawaii;

(20) Employees in the department of education engaged in the supervision of students during meal periods in the distribution, collection, and counting of meal tickets, and in the cleaning of classrooms after school hours on a less than half-time basis;

(21) Employees hired under the tenant hire program of the Hawaii public housing authority; provided that not more than twenty-six per cent of the authority's workforce in any housing project maintained or operated by the authority shall be hired under the tenant hire program;

(22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;

(23) Positions filled by persons with severe disabilities who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;

(24) The sheriff;

(25) A gender and other fairness coordinator hired by the judiciary;

(26) Positions in the Hawaii National Guard youth and adult education programs;

(27) In the state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts; ~~and~~

(28) Administrative appeals hearing officers in the department of human services~~[-]; and~~

(29) The chief executive officer of the Hawaii airports corporation, all other executive officers the chief executive officer may appoint pursuant to section -3(d), and fifteen positions that the chief executive officer is authorized to fill by appointing specially qualified personnel pursuant to section -3(d).

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

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

SECTION 10. Section 84-17, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The financial disclosure statements of the following persons shall be public records and available for inspection and duplication:

(1) The governor, the lieutenant governor, the members of the legislature, candidates for and delegates to the constitutional convention, the trustees of the office of Hawaiian affairs, and candidates for state elective offices;

(2) The directors of the state departments and their deputies, regardless of the titles by which the foregoing persons are designated; provided that with respect to the department of the attorney general, the foregoing shall apply only to the attorney general and the first deputy attorney general;

(3) The administrative director of the State;

(4) The president, the vice presidents, the assistant vice presidents, the chancellors, members of the board of regents, and the provosts of the University of Hawaii;

(5) The members of the board of education and the superintendent, the deputy superintendent, the state librarian, and the deputy state librarian of the department of education;

(6) The administrative director and the deputy director of the courts;

(7) The administrator and the assistant administrator of the office of Hawaiian affairs; and

(8) The members of the following state boards, commissions, and agencies:

(A) The board of directors of the agribusiness development corporation established under section 163D-3;

(B) The board of agriculture established under section 26-16;

(C) The state ethics commission established under section 84-21;

(D) The Hawaii community development authority established under section 206E-3;

- (E) The Hawaiian homes commission established under the Hawaiian Homes Commission Act of 1920, as amended, and section 26-17;
- (F) The board of directors of the Hawaii housing finance and development corporation established under section 201H-3;
- (G) The board of land and natural resources established under section 171-4;
- (H) The state land use commission established under section 205-1;
- (I) The legacy land conservation commission established under section 173A-2.4;
- (J) The natural area reserves system commission established under section 195-6;
- (K) The board of directors of the natural energy laboratory of Hawaii authority established under section 227D-2;
- (L) The board of directors of the Hawaii public housing authority established under section 356D-3;
- (M) The public utilities commission established under section 269-2; [~~and~~]
- (N) The commission on water resource management established under section 174C-7[~~-~~];
- (O) The board and CEO of the Hawaii airports corporation established under section -2."

SECTION 11. Section 89C-1.5, Hawaii Revised Statutes, is amended by amending the definition of "appropriate authority" to read as follows:

"Appropriate authority" means the governor, the respective mayors, the chief justice of the supreme court, the board of education, the board of regents, the state public charter school commission, the Hawaii health systems corporation board, the auditor, the ombudsman, the board of directors of the Hawaii airports corporation, and the director of the legislative reference bureau. These individuals or boards may make adjustments for their respective excluded employees."

SECTION 12. Section 103D-102, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Notwithstanding subsection (a), this chapter shall not apply to contracts made by:

- (1) Any regional system board of the Hawaii health systems corporation; ~~or~~
- (2) The Kaho'olawe island reserve commission, except as provided by section 6K-4.5[-]; or
- (3) The Hawaii airports corporation; provided that the airports corporation adopts rules that meet the requirements of section -3.

SECTION 13. Section 171-2, Hawaii Revised Statutes, is amended to read as follows:

§171-2 Definition of public lands. "Public lands" means all lands or interest therein in the State classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of

eminent domain, or in any other manner; including lands accreted after May 20, 2003, and not otherwise awarded, submerged lands, and lands beneath tidal waters that are suitable for reclamation, together with reclaimed lands that have been given the status of public lands under this chapter, except:

(1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;

(2) Lands set aside pursuant to law for the use of the United States;

(3) Lands being used for roads and streets;

(4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the state constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;

(5) Lands to which the University of Hawaii holds title;

(6) Lands to which the Hawaii housing finance and development corporation in its corporate capacity holds title;

(7) Lands to which the Hawaii community development authority in its corporate capacity holds title;

(8) Lands to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned or to recover debts otherwise owed the department under chapter 167;

(9) Lands that are set aside by the governor to the Aloha Tower development corporation; lands leased to the Aloha Tower development corporation by any department or agency of the State; or lands to which the Aloha Tower development corporation holds title in its corporate capacity;

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

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

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

(13) Lands to which the Hawaii airports corporation holds title;

provided that, except as otherwise limited under federal law and except for state land used as an airport as defined in section 262-1, public lands shall include the air rights over any portion of state land upon which a county mass transit project is developed after July 11, 2005[-]; provided further that lands to which the Hawaii airports corporation holds title shall be considered "public lands" for the purpose of accounting of all receipts from lands that are described in section 5(f) of the Admission Act, Public Law 86-3, for the prior fiscal year, pursuant to section 5 of Act 178, Session Laws of Hawaii 2006."

SECTION 14. Section 261-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

"Chief executive officer" means the chief executive officer of the Hawaii airports corporation.

"Corporation" means the Hawaii airports corporation."

SECTION 15. Section 261-7, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

~~"(e) [The department may fix and regulate, from time to time, reasonable landing fees for aircraft, including the imposition of landing surcharges or differential landing fees, and other reasonable charges for the use and enjoyment of the airports and the services and facilities furnished by the department in connection therewith, including the establishment~~

~~of a statewide system of airports landing fees, a statewide system of airports support charges, and joint use charges for the use of space shared by users, which fees and charges may vary among different classes of users such as foreign carriers, domestic carriers, inter-island carriers, air taxi operators, helicopters, and such other classes as may be determined by the director, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature.]~~ The corporation shall fix, impose, prescribe, and collect rates, rentals, fees, or charges for the lease, use, and services of its airport facilities in amounts sufficient to pay the costs of the operation, maintenance, and repair, if any, and the required payments of the principal of, and interest on, all bonds issued or assumed by the corporation and reserves therefor.

In setting airports rates and charges, including landing fees, the [~~director~~] chief executive officer may enter into contracts, leases, licenses, and other agreements with aeronautical users of the statewide system of airports containing such terms, conditions, and provisions as the [~~director~~] chief executive officer deems advisable.

If the [~~director~~] chief executive officer has not entered into contracts, leases, licenses, and other agreements with any or fewer than all of the aeronautical users of the statewide system of airports prior to the expiration of an existing contract, lease, license, or agreement, the [~~director~~] chief

executive officer shall set and impose rates, rentals, fees, and charges pursuant to this subsection without regard to the requirements of chapter 91; provided that a public informational hearing shall be held on the rates, rentals, fees, and charges.

The [~~director~~] chief executive officer shall develop rates, rentals, fees, and charges in accordance with a residual methodology so that the statewide system of airports shall be, and always remain, self-sustaining. The rates, rentals, fees, and charges shall be set at [~~such~~] levels as to produce revenues [~~which,~~] that, together with aviation fuel taxes, shall be at least sufficient to meet the expenditures of the statewide system of airports set forth in section 261-5(a), including expenditures for capital improvement projects approved by the legislature, and to comply with covenants and agreements with holders of airport revenue bonds.

The [~~director~~] chief executive officer may develop and formulate methodology in setting the various rates, rentals, fees, and charges imposed and may determine usage of space, estimate landed weights, and apply [~~such~~] the portion of nonaeronautical revenue deemed appropriate in determining the rates, rentals, fees, and charges applicable to aeronautical users of the statewide system of airports.

The rates, rentals, fees, and charges determined by the [~~director~~] chief executive officer in the manner set forth in this subsection shall be those charges payable by the aeronautical users for the periods immediately following the date of expiration of the existing contract, lease, license, or

agreement. If fees are established pursuant to this section, the [~~department~~] corporation shall prepare a detailed report on the circumstances and rates and charges that have been established, and shall submit the report to the legislature no later than twenty days prior to the convening of the next regular session.

If a schedule of rates, rentals, fees, and charges developed by the [~~director~~] chief executive officer in accordance with this section is projected by the [~~department~~] corporation to produce revenues [~~which,~~] that, together with aviation fuel taxes, will be in excess of the amount required to meet the expenditures of the statewide system of airports set forth in section 261-5(a), including expenditures for capital improvement projects approved by the legislature, and to comply with covenants and agreements with holders of airport revenue bonds, the [~~department~~] corporation shall submit the schedule of rates, rentals, fees, and charges to the legislature prior to the convening of the next regular session of the legislature. Within forty-five days after the convening of the regular session, the legislature may disapprove any schedule of rates, rentals, fees, and charges required to be submitted to it by this section by concurrent resolution. If no action is taken by the legislature within the forty-five-day period the schedule of rates, rentals, fees, and charges shall be deemed approved. If the legislature disapproves the schedule within the forty-five-day period, the [~~director~~] chief executive

officer shall develop a new schedule of rates, rentals, fees, and charges in accordance with this section within seventy-five days of the disapproval. Pending the development of a new schedule of rates, rentals, fees, and charges, the schedule submitted to the legislature shall remain in force and effect.

Notwithstanding any other provision of law to the contrary, the [~~department~~] corporation may waive landing fees and other aircraft charges established under this section at any airport owned or controlled by the State whenever:

- (1) The governor declares a state of emergency; and
- (2) The [~~department~~] corporation determines that the waiver of landing fees and other charges for the aircraft is consistent with assisting in the delivery of humanitarian relief to disaster-stricken areas of the State."

SECTION 16. Section 262-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

"Chief executive officer" means the chief executive officer of the Hawaii airports corporation.

"Corporation" means the Hawaii airports corporation."

SECTION 17. On and after the transfer completion date established by the Hawaii airports corporation in section 19(b) of this Act, and until the revisor of statutes makes the amendments to applicable provisions in chapters 102, 261, 261D, and 262, Hawaii Revised Statutes, described in this section, every reference to the department of transportation or "department" or its role in awarding concessions in chapters

102, 261, 261D, and 262, Hawaii Revised Statutes, shall be a reference to the Hawaii airports corporation, and every reference to the director of transportation or "director" or the director's role in awarding concessions in chapters 102, 261, 261D, and 262, Hawaii Revised Statutes, shall be a reference to the chief executive officer of the Hawaii airports corporation. After the transfer completion date but no later than when the subsequent supplements to the Hawaii Revised Statutes are prepared, the revisor of statutes shall make appropriate changes, including, without limitation:

(1) Substituting the phrase "chief executive officer" for the terms "director" or "director of transportation", the term "Hawaii airports corporation" for the term "department of transportation", and the term "corporation" for the term "department";

(2) Deleting the definition of "director", in chapters 261 and 262, Hawaii Revised Statutes; and

(3) Deleting the definition of "department" in sections 261-1 and 262-1, Hawaii Revised Statutes.

SECTION 18. The Hawaii airports corporation shall succeed to the jurisdiction, powers, and responsibilities of the department of transportation over aeronautics and airports, including all of the functions relating to airports and aeronautics performed by the department and its airports division, on the transfer completion date published by the Hawaii airports corporation pursuant to section 19(b) of this Act, which date shall be no later than December 31, 2022.

On the transfer completion date, the airports corporation shall assume from the department of transportation:

(1) That:

- (A) Certain Certificate of the Director of Transportation Providing for the Issuance of State of Hawaii Airports System Revenue Bonds dated as of May 1, 1969, relating to certain revenue bonds and other obligations;
- (B) Certain Indenture of Trust dated as of December 1, 2013, between the department of transportation and U.S. Bank National Association relating to certain certificates of participation; and
- (C) Certain Indenture of Trust dated as of August 1, 2014, between the department of transportation and MUFG Union Bank, N.A., relating to certain customer facility charge revenue bonds, each as supplemented and amended to date; and

(2) The bonds, notes, and other obligations of the department of transportation outstanding under, as well as the covenants, restrictions, and other requirements set forth in, those documents.

Thereafter, to the extent that the Hawaii airports corporation is authorized under this Act to exercise powers and duties that are also granted to other departments, offices, or boards of the State, with respect to airports and aeronautical facilities, the Hawaii airports corporation shall exclusively exercise those powers and perform those duties.

SECTION 19. (a) Within ninety days of the effective date of this Act, the governor shall designate a representative who shall facilitate the corporation's orderly succession to the jurisdiction, powers, functions, rights, benefits, obligations, assets, liabilities, funds, accounts, contracts, and all other things currently held, used, incurred, or performed by the department of transportation, its director and staff, and its airports division, in administering and exercising the authority and fulfilling the responsibilities authorized or conferred upon the department of transportation and the director of transportation, by chapters 102, 261, 261D, and 262, Hawaii Revised Statutes.

Within one hundred eighty days of the effective date of this Act, the governor shall appoint the members of the board of directors of the Hawaii airports corporation.

To facilitate the corporation's timely assumption of the department of transportation's authority and responsibilities, including all of the department's associated bonds, notes, and obligations as described in paragraph (7) below, the department of transportation, the department of accounting and general services, the department of human resources development, the state procurement office, and any other state department or agency shall, if requested by the corporation, enter into a memorandum of understanding with the corporation to:

(1) Provide administrative support services for the corporation pending the transfer of employees from the department of transportation to the Hawaii airports corporation pursuant to section 23 of this Act;

(2) Develop a policy and set of robust procurement procedures that foster accountability, transparency and oversight of contracts, to include compliance with federal procurement requirements;

(3) Assist the corporation with the organization of its human resources development functions, including establishing:

(A) A human resources office;

(B) The corporation's civil service and civil service positions, and the classification system, merit appeals board, recruitment system, performance appraisal system, and the administrative rules, policies, standards, and procedures, including internal complaint procedures, adopted to support its civil service; and

(C) The corporation's exempt and excluded positions, and guidelines, procedures, and policies for filling them, and compensating the officers and employees who fill them;

(4) Assist the corporation in establishing its accounting, budgeting, fund management, and communication and electronic information systems, and creating appropriate interfaces between the corporation's accounting, budgeting, fund management, communication and electronic information systems, and those of the department of transportation, and other state agencies;

(5) Assist the corporation in identifying the plans and reports that departments and agencies administratively attached to a department are required to prepare for the governor, the legislature, or another state department or agency with respect to aeronautics or the State's airport system; determining whether those plans and reports have been prepared and will be transferred to the corporation on the transfer completion date; and preparing the same for the corporation, if they do not exist;

(6) Expeditiously transfer or otherwise facilitate the corporation's acquisition or assumption of all of the powers, functions, rights, benefits, obligations, assets, funds, accounts, contracts, and all other things held, used, incurred, or performed by the department of transportation, its director and staff, and its airports division, in exercising the authority and fulfilling and administering the responsibilities conferred upon the department of transportation and the director of transportation by chapters 102, 261, 261D, and 262, Hawaii Revised Statutes;

(7) Assign and transfer:

- (A) That certain Certificate of the Director of Transportation Providing for the Issuance of State of Hawaii Airports System Revenue Bonds dated as of May 1, 1969, relating to certain revenue bonds and other obligations;
- (B) That certain Indenture of Trust dated as of December 1, 2013, between the department of transportation and U.S. Bank National Association relating to certain certificates of participation; and
- (C) That certain Indenture of Trust dated as of August 1, 2014, between the department of transportation and MUFG Union Bank, N.A., relating to certain customer facility charge revenue bonds, each as supplemented and amended to date; the assumption of all indebtedness of the department of transportation heretofore issued and outstanding thereunder; and the adoption of policies and procedures designed to ensure continuing compliance with the terms thereof for so long as they are applicable; and

(8) Reimburse each cooperating department or agency for the cost of services provided under the memorandum of understanding.

(b) As soon as feasible, the Hawaii airports corporation, with the concurrence of the director of transportation and the

governor, shall establish the transfer completion date, which shall be no later than December 31, 2022, and publish notice of the transfer completion date by:

(1) Publishing the notice in a daily publication of statewide circulation pursuant to section 1-28.5, Hawaii Revised Statutes;

(2) Posting a copy of the notice on an electronic calendar on a website maintained by the State;

(3) Providing a copy of the notice to the department of transportation, the Secretaries of the United States Department of Transportation and Department of Defense, the head of the Federal Aviation Administration, and the head of every other state department; and

(4) Posting the notice prominently at every airport and air navigation facility in the State.

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

SECTION 20. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair any existing federal income tax exemption to, security interest of, or obligation of the State or any agency thereof to the holders of any bonds or other obligations issued by the State or by any department or agency of the State, and to the extent, and only to the extent necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 21. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

The department of transportation shall be responsible for any and all obligations incurred by the department or its airports division in connection with the department's exercise of the authority and performance of the duties and responsibilities conferred upon it and its director by chapters 102, 261, 261D, and 262, Hawaii Revised Statutes, until the time that the obligations, including any accounts payable, accrued paid time off, debt, capital leases, and other obligations incurred before the transfer completion date, have been assumed by the Hawaii airports corporation, which shall not occur prior to the transfer completion date. All collective bargaining disputes or claims against the department of transportation grounded in an act or omission, or an event that occurred prior to the transfer completion date shall remain the responsibility of the department of transportation. All liabilities arising out of the Hawaii airports corporation's exercise of the authority and performance of the duties and responsibilities conferred upon it and its chief executive officer by chapters 102, 261, 261D, and 262, Hawaii Revised Statutes, after the transfer completion date shall be the responsibility of the Hawaii airports corporation. The assumption by the Hawaii airports corporation of the bonds, notes, or other obligations of the department of transportation relating to the State's airports system shall be subject to the terms and provisions of any certificate, indenture, or resolution securing those bonds, notes, or other obligations. On the transfer completion date, the Hawaii airports corporation shall assume responsibility for

all rights, duties, penalties, and proceedings of the department of transportation related to the State's airports system.

SECTION 22. The State of Hawaii pledges to and agrees with the holders of the bonds, notes, or other obligations of the department of transportation being assumed by the Hawaii airports corporation on the transfer completion date and the holders of the bonds, notes, or other obligations of the airports corporation issued pursuant to chapters 37D or 39, Hawaii Revised Statutes, that the State shall not limit or alter the rights and powers vested in the Hawaii airports corporation so as to impair the terms of any contract made or assumed by the airports corporation with holders or in any way impair the rights and remedies of holders until bonds, notes, or other obligations, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of holders, are fully met and discharged. In addition, the State pledges to and agrees with the holders of the bonds, notes, or other obligations of the department of transportation being assumed by the Hawaii airports corporation on the transfer completion date and the holders of the bonds, notes, or other obligations of the airports corporation issued pursuant to chapter 37D or 39, Hawaii Revised Statutes, that the State shall not limit or alter the basis on which the revenues or user taxes securing any such bonds, notes, or other obligations issued or assumed by the airports corporation are to be received by the airports corporation, or the rights of the airports corporation

to the use of the funds, so as to impair the terms of any contract securing the same. The Hawaii airports corporation is authorized to include these pledges and agreements of the State in any contract with the holders of bonds, notes, or other obligations issued pursuant to chapter 37D or 39, Hawaii Revised Statutes.

SECTION 23. The Hawaii airports corporation shall recognize all bargaining units and collective bargaining agreements existing at the time of transfer to the corporation. All employees who are subject to chapter 76, Hawaii Revised Statutes, and occupy civil service positions and whose functions are transferred to the Hawaii airports corporation by this Act shall retain their civil service status, whether permanent or temporary. The employees shall be transferred to the Hawaii airports corporation without loss of salary, seniority (except as prescribed by applicable collective bargaining agreements), retention points, prior service credits, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act; provided that the employees meet applicable requirements for the class or position to which transferred or appointed, as applicable.

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

Any employee who, prior to this Act, is exempt from civil service and is transferred to the Hawaii airports corporation as

a consequence of this Act may retain the employee's exempt status, but shall not be appointed to a civil service position as a consequence of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, vacation or sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act. The chief executive officer of the Hawaii airports corporation may prescribe the duties and qualifications of these employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes.

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

The department of transportation and the Hawaii airport corporation shall require every employer doing business at the airports pursuant to a concession contract or subcontract entered into with the airport corporation after the effective date of this section to retain as its employees for a minimum period of 120 days, during which they may be terminated only for cause, workers who are employed by the previous concessionaire or who were employed at the end of that concessionaire's contract and who have been displaced. The employer shall retain such workers in the same equivalent job classifications as they held under the previous concessionaire and if more workers are eligible for retention than there are positions in the new or expanded concession, the employer shall give such workers preference for future employment in order of their seniority, as

determined by their total length of service at the airports under one or more concessionaires.

SECTION 24. On or no more than ninety days after the transfer completion date, all appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of transportation relating to the functions transferred to the Hawaii airports corporation shall be transferred with the functions to which they relate.

SECTION 25. All rules, policies, procedures, guidelines, and other material adopted or developed by the department of transportation to implement provisions of the Hawaii Revised Statutes that are reenacted or made applicable to the Hawaii airports corporation by this Act shall remain in full force and effect on and after the transfer completion date established pursuant to section 19(b) of this Act, until amended or repealed by the Hawaii airports corporation pursuant to chapter 91, Hawaii Revised Statutes. In the interim, every reference to the department of transportation or director of transportation in those rules, policies, procedures, guidelines, and other material is amended to refer to the Hawaii airports corporation or chief executive officer of the airports corporation, as appropriate.

SECTION 26. All deeds, executive orders, leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the department of

transportation, pursuant to the provisions of the Hawaii Revised Statutes, that are reenacted or made applicable to the Hawaii airports corporation by this Act shall remain in full force and effect. On the transfer completion date established pursuant to section 19(b) of this Act, every reference to the department of transportation in those deeds, executive orders, leases, contracts, loans, agreements, permits or other documents shall be construed as a reference to the Hawaii airports corporation or the board of directors of the airports corporation.

SECTION 27. There is appropriated out of the airport revenue fund the sum of \$3,000,000 or so much thereof as may be necessary for fiscal year 2019-2020, to effect the transfer of functions from the department of transportation to the Hawaii airports corporation required by this Act.

The sum appropriated shall be expended by the Hawaii airports corporation to implement the provisions of this Act.

SECTION 28. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 29. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 30. This Act shall take effect on July 1, 2050; provided that section 15 of this Act shall take effect upon the satisfaction and discharge of:

(1) That certain Certificate of the Director of Transportation Providing for the Issuance of the State of Hawaii Airports System Revenue Bonds dated as of May 1, 1969;

(2) That certain Indenture of Trust dated as of December 1, 2013, between the department of transportation and U.S. Bank National Association; and

(3) All obligations issued and outstanding under the Certificate and Indenture.

Report Title:

Transportation; Hawaii Airports Corporation;
Establishment; Appropriation

Description:

Authorizes establishment of the Hawaii Airports Corporation (HAC) within the Department of Transportation for administrative purposes. Sets out appointment of members to the board of directors and powers and duties of HAC. Transfers aeronautics functions of the Department of Transportation to HAC. Makes HAC subject to Hawaii procurement code. Requires HAC to set rates and determine costs based on the residual method. Subjects HAC board and CEO to financial disclosure requirements. Appropriates funds. (SB666 HD1)



March 19, 2019

LATE

TESTIMONY RE: SENATE BILL 666, SD2, HD1 RELATING TO AN AIRPORTS CORPORATION
Tuesday March 19, 2019 – 9:30AM

Aloha Chair Johanson, Vice Chair Eli and members of the House Committee on Labor & Public Employment,

I am Blaine Miyasato, Hawaiian Airlines' representative on the Airlines Committee of Hawai'i (ACH) and ACH co-chair. Hawaiian Airlines is the largest user of the state airport system and, as a result, the largest individual contributor to the operating budget of our state's 15 airports.

We are testifying in opposition to S.B. 666, HD1 this morning. We are specifically concerned with the removal of two of the three provisions critical to releasing airport operations and capital improvements from the longstanding grip of inefficiency, which is what the Hawai'i Airports Corporation is designed accomplish. Those amendments would:

1. Remove of the annual Lump Sum funding mechanism.
2. Subject the Hawai'i Airports Corporation (HAC) to the State's procurement code even after the HAC drafts its own procurement policies better suited to the complexity of running a large size airport(s), and, even after the State Procurement Officer (SPO) reviews the policies to ensure key procurement protocols are maintained.

We urge you to consider amending this measure to reflect the language contained in S.B. 666 SD2.

The state's airport system, from civil service personnel to capital costs, is entirely funded through rates and charges paid for by the airport users and concessionaires. The money collected from the user groups is held in a special fund and, under federal law, cannot be used for purposes outside of the airport. The appropriation and distribution of those funds is managed through the state administrative and legislative process.

This is a critical distinction. The current system, which distributes private funds through a public budgetary process has proven to be inefficient as it relates to the complexity of airport operations and capital improvement projects. Our kama'aina and malihini travelers begin and end their vacations with an antiquated and stressful airport experience. We have a long list of upgrades and we have both the budget and will among the user groups to fund them.

S.B. 666, SD2, which contains the language we prefer, solves the fundamental problem with the current governance system and will effectively clear the logjam.

This measure provides three important components for relief. All three must be present if we are to truly move our airports forward.

- **Consistent administrative direction.** Under the current system, the monies paid by user airlines and concessionaires fund the state DOT-Airports division budget. Improvements plans are drawn up in coordination with the DOT-A personnel, and advanced through departmental plans as part of the Governor's budget. This makes the appointed Director of the state DOT the de-facto head of the Airports and leaves long-term airport improvement plans vulnerable to change with each four-year election cycle.

S.B. 666, SD2, would remove the operation and management of the Airports systems from the election cycle, thereby allowing improvement and modernization plans a smoother and faster path to completion.

- **Lump-sum appropriation.** It is rare for any construction project to proceed from plan to completion without any adjustment. Under the current system, once the state Legislature has adjourned sine die, such adjustments must wait to be taken up the following session. S.B. 666, SD2 will allow the legislature to approve lump-sum annual appropriations from the user fee Airport Fund providing the Corporation with the ability to make necessary adjustments between Legislative sessions. This will keep schedules and costs on track. The legislature maintains budgetary oversight as the Corporation is tied administratively to the DOT.
- **Procurement efficiency.** We wholeheartedly support a system that ensures efficiency and equity in the award of design and construction contracts. Over the years, we have encountered instances in which the existing process has driven, rather than prevented, inefficiency and increased costs. S.B. 666, SD2 will allow the Corporation to set up a more efficient system for the award of design and construction contracts. This will mitigate, if not eliminate, long and costly construction delays.

The airport system is rife with examples of projects that have faltered due to one or more of the pitfalls described above. I have attempted to encapsulate a few of the more recent examples in the matrix below:

Location	Project	Description and Timeline	Contributing Issues
HNL	Mauka Concourse	The Airlines Committee of Hawai'i (ACH) approved construction of new gates on the Mauka side of HNL as Phase 1 of Airport modernization in 2007. Enabling projects poised to begin in 2010 stalled due to Administration change. Project halted. Enabling project resumed in 2012 but is further delayed by work stoppages due to issues with subcontractors. The cargo hangar was completed in October 2017, millions over budget. Mauka concourse is expected to be completed in 2021 – 14 years after approval by the ACH.	Change in Administration Procurement inefficiency
HNL	Baggage Handling System (BHS) Upgrades	This project, which would update the antiquated system of moving baggage at Daniel K. Inouye International Airport, was approved by the ACH in 2015. The contract for the work was signed in 2017, but due to inaction on the project, the funds lapsed. The project has been refunded and has only recently been realigned.	Lack of lump-sum funding.
OGG	Passenger Hold Rooms	In 2014 the ACH supported a plan to increase the size of the hold rooms on the South side terminal at Kahului Airport to accommodate larger aircraft at gates there. The funding was delayed and then held up in the procurement process delaying the project further. The project has been realigned and scheduled to be completed in 2021.	Lack of lump-sum funding. Inefficient procurement.

Opponents of an Airports Corporation believe it will obscure accountability for the expenditure of funds. Hawaiian Airlines would argue that the examples above suggest that, in fact, greater transparency is needed beyond what is delivered in the current system. An Airports Corporation would create a CEO management structure that operates year-round to oversee and manage the user-fee based resources that is dedicated to improving the guest experience at our state's airports. And, in fact, it will deliver much more accountability than the current system provides. It will deliver results, jobs on the street with short, mid and long-term construction projects providing local employment opportunities for years to come.

In conclusion, the Hawai'i Airports Corporation as outlined in S.B. 666, SD2 represents Hawai'i's best chance at creating the world-class airport system that our guests experience elsewhere and we all deserve here in our Islands. I respectfully ask the committee to revert to that language and pass an amended bill out of committee.

SB-666-HD-1

Submitted on: 3/18/2019 2:44:50 PM

Testimony for LAB on 3/19/2019 9:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Pride Work HI	Pride at Work Hawaii	Oppose	No

Comments:

Aloha Representatives,

The Pride at Work Hawaii, an affiliate of Hawaii State AFL-CIO, **opposes** the passage of SB 666 SD 2 HD 1.

Mahalo for your consideration and for the opportunity to testify in opposition of SCR 131.

Mahalo,

Pride at Work - Hawaii



1088 BISHOP STREET #408
HONOLULU, HI 96813
PH: (808) 597-1216

GREGG S. SERIKAKU
EXECUTIVE DIRECTOR

Via Email

March 18, 2019

Representative Aaron Ling Johanson, Chair
Representative Stacelynn K.M. Eli, Vice-Chair
House Committee on Labor and Public Employment

Chair Johanson, Vice Chair Eli, and Members of the Committee:

SUBJECT: SB666 SD2 HD1 Relating to Airports Corporation

My name is Gregg Serikaku, Executive Director for the Plumbing and Mechanical Contractors Association of Hawaii, and our Association represents contractors that perform plumbing, air conditioning, and fire sprinkler work throughout Hawaii and who employ more than 2,500 tradespersons, and administrative and managerial personnel.

Our airports are critically important to our tourism industry and steps should be taken to form an airports corporation that oversees and coordinates the development and management of the State's airports under one umbrella organization. We support the current HD1 version, and applaud the efforts of the House Transportation committee to require the airport corporation to comply with HRS 103D, the Hawaii Procurement Code.

The Hawaii Procurement Code was created to ensure that public funds are expended using a fair, efficient, competitive and transparent process which is designed to identify and eliminate conflicts of interest and other acts of impropriety, and which avoids the intent and appearance of unethical behavior by both the government agencies and contractors. Furthermore, Hawaii's procurement code has been used for many years to successfully procure numerous large construction projects, and this process can be integrated seamlessly within the proposed framework of the Airports Corporation, as such we do not see the need to exempt the Airports Corporation from the requirements of HRS 103D.

Thank you for this opportunity to provide our testimony.

Respectfully yours,

Gregg S. Serikaku
Executive Director



**Testimony to the House Committee on Labor and Public Employment
Tuesday, March 19, 2019 at 9:30 A.M.
Conference Room 309, State Capitol**

RE: SB 666 SD2 HD1 RELATING TO AN AIRPORTS CORPORATION

Chair Johanson, Vice Chair Eli, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports the intent of** SB 666 SD2 HD1, which would authorize the establishment of the Hawaii Airport Corporation within the department of transportation for administrative purposes. The bill sets out appointment of members to the board of directors and powers and duties of the Hawaii Airport Corporation and transfers the aeronautics functions of DOT to the Hawaii Airport Corporation. The bill also subjects the Hawaii Airport Corporation to the Hawaii procurement code and requires the Hawaii Airport Corporation to set rates and determine costs based on the residual method. Finally, the bill subjects the Hawaii Airport Corporation board and CEO to financial disclosure requirements.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

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

An Airport Corporation would allow for:

- Making improvements quickly and efficiently
- Increasing transparency and accountability
- Creating a more competitive tourism industry
- Delivering economic benefits across all sectors
- Making flying a better experience
- Fostering a better working environment
- Providing year-round oversight and leadership with a five-member board and CEO
- Transferring all employees of the state to the corporation without loss of salary, seniority and benefits



The proposed Airport Corporation would also be in a better position to enter into Public-Private-Partnerships (P3) which would allow for private investment to improve the Airport facilities across the State. We understand that nationally, P3's involving Airports have become an attractive to private investors resulting in mixed use development being included in the Airport modernization.

Also, one of the compelling arguments to create an Airport Corporation is that currently, Airports does not use any tax payer funds. All funds used in the airport operations are derived from user fees and assessments within the Airport properties. Having the users more involved in the oversight of airport improvements, would provide more provide more accountability in how the fees and assessments are being spent.

The latest amendments to the bill require the proposed Airports Corporation to comply with the State Procurement Code and establishes the methodology for how rates and costs will be determined. The amendments also require the proposed Airports Corporation to be subject to the Legislative budget process.

We appreciate and understand the desire of the legislature to provide more oversight on the proposed Corporation. We believe these additional oversight requirements need to be balanced with the intent of the legislation to create a more independent, and what would appear to be "market driven," approach to how Airports are managed and operated in Hawaii. The recent amendments do not appear to create the type of airport authority originally envisioned in the bill.

We support the intent of SB 666 SD 2 HD 1, but would prefer the language in SB 666 SD 2.

Thank you for the opportunity to testify.



Tuesday, March 19, 2019 at 9:30 AM
Conference Room 309

House Committee on Labor & Public Employment

To: Representative Aaron Johanson, Chair
Representative Stacelynn Eli, Vice Chair

From: Ray Vara
President & CEO

**Re: Testimony In Opposition To SB 666, SD2, HD1
Relating to An Airports Corporation**

I am Ray Vara, President and CEO of Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of Kapi'olani, Pali Momi, Straub and Wilcox with 70 locations statewide serving Hawai'i and the Pacific Region.

I write in opposition to the current draft of SB 666, SD2, HD1 which, among other things, authorizes the establishment of the Hawaii Airports Corporation within the Department of Transportation for administrative purposes. While we support the establishment of the Hawaii Airports Corporation, key elements necessary to execute capital improvement projects in an efficient and timely manner were removed from the bill through the HD1. The inclusion of other amendments in the HD1 makes it impracticable. We urge this Committee to amend the bill back to the version contained in the SD2.

The current process of submitting a line by line budget makes it difficult to resolve unexpected situations that may arise in a timely manner such as the baggage handling systems improvement project at HNL and the start and stop of the Mauka Concourse project. The customer experience is always top of mind with the airlines and we would like to avoid passengers being inconvenienced by antiquated and subpar facilities. One lump sum for capital projects and one lump sum for operating gives the Corporation the flexibility it needs to reallocate and adjust priorities, as necessary, and take advantage of market opportunities.

The ability for the Corporation to develop its own procurement policies and procedures is imperative to achieve the anticipated benefits of having a Hawaii Airports Corporation (HAC). The current procedures impose undue delay and process complexity and as a consequence, have delayed needed airport projects, with negative impacts on job creation and economic development. The protest adjudication process must be contained

within the Corporation and more reasonable criteria established to discourage frivolous protests which routinely delay procurement processes.

Unlike other State departments and authorities, the airports are self-sustaining and must meet stringent operating, safety and security standards 365 days per year. No State general funds are used for Hawaii's airports and the HAC will not require any. It will be fully funded by user fees and underwritten by the airlines serving the State's airport system. Additionally, the HAC will be a highly regulated and scrutinized organization. It will be reviewed and certified by the Federal Aviation Administration (FAA). The FAA also imposes many regulatory requirements on airports and consistently monitors compliance. The Corporation will have an audit requirement under federal law.

At Hawai'i Pacific Health, we recognize the close interrelations between the income security of our patients and their health and well-being. As a non-profit health care delivery system we are therefore also invested in assuring that Hawai'i sustains its economic viability as it income security is a key component supporting the general health of our communities.

Our airports are the gateway to the visitor experience in Hawai'i and leave an enduring first and last impression for all of our visitors. Given their importance to the total visitor experience, our airports need an operational structure to best enable their ability to enhance the visitor experience.

The creation of an airport corporation - led by a board with the requisite professional expertise – will ensure that the airport will be provided with the operational flexibility and structure it needs to meet the demands of today and the future.

Thank you for the opportunity to testify.

IRON WORKERS STABILIZATION FUND

LATE

March 19, 2019

Committee on Labor & Public Employment
9:30 am
Conference Room 309
House
State Capitol
Honolulu, Hawai'i 96813

Re: SB666 SD2 HD1 – Relating to an Airports Corporation

Aloha Chair Aaron Ling Johanson, Vice-Chair Stacelynn Eli and members of the House Committee on Labor & Public Employment:

We **OPPOSE** the passage of SB666 SD2 HD1 as it is still given the exemption from the Procurement Code on page 49, lines 11-13. Further, in response to questions during the hearing on the House Committee on Transportation by Administrative Director Ford Fuchigami of Governor Ige, it seems clear that the administration wishes for a procurement exemption. *See Bill To Create An Airport Corporation Advances — With A Very Big Catch*, Civil Beat (March 15, 2019). However, none of the administration's testimonies specify why the procurement exemption is needed and what problem that such an exemption would be addressing.

The expenditure of public money must be done in a transparent and open way to ensure public confidence in government. The Procurement Code is used to ensure that the public may be assured that their resources are being handle well. In previous years, this matter has arisen and the wholesale exemption from the Procurement Code was addressed. We ask for that same consideration now.

In addition, we believe that it is in the best interest of the public regarding the expenditure of public resources if it is known at the time of bid whom the prime contractor, subcontractors, and joint contractors are for any construction jobs. If there is no listing, we will find ourselves in a "race-to-the-bottom" situation, where prime contractors will be encouraged to "bid-shop" and seek a lower price from their subcontractors, joint contractors, or to simply replace them with new ones. This will lead to the many "mom and pop" subcontractors going out of business. Further, this would result in the erosion of the number of specialized construction workers that call Hawai'i home.

We oppose this measure until such time that we can ensure protections for the public, for "mom and pop" small businesses, and for the working men and women of Hawai'i.

We respectfully request that the committee **HOLD** this measure.

Mahalo for your time and consideration.



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

LATE

**HEARING BEFORE THE HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 309
TUESDAY, MARCH 19, 2019 AT 9:30 A.M.**

To The Honorable Aaron Ling Johanson, Chair;
The Honorable Stacelynn K.M. Eli, Vice Chair; and
Members of the Committee on Labor & Public Employment;

COMMENTS ON SB666 HD1 RELATING TO AN AIRPORTS CORPORATION

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce, serving in this role for over a decade. Thank you for the opportunity to testify.

It is imperative that this bill be changed back to the previous draft SD2. SB666 HD1 goes against the intention of the establishment of the airports corporation. This bill is about streamlining critical airport infrastructure, which benefits both the residents and visitors of Hawaii and needs to be separated from other unrelated issues and viewed for what it is. Government has not been as effective in addressing airport infrastructure needs due to procurement law and the previous draft of the bill SB 666 SD2 is an effective way to address this issue and help improve our airports.

We support the creation of the airports corporation and the previous draft of the bill SB 666 SD2. We ask that you please amend this bill to the previous draft and move this bill forward.

Mahalo for your consideration of our testimony.

Sincerely,

Pamela Tumpap
President

SB-666-HD-1

Submitted on: 3/18/2019 6:41:28 PM

Testimony for LAB on 3/19/2019 9:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Irish Barber	IATSE Local 665	Oppose	No

Comments:

THE HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

March 19, 2019
9:30 a.m., Room 309

Re: Senate Bill 666, SD2, HD1
Relating To An Airports Corporation

LATE

Painting Industry of Hawaii Labor Management Cooperation Trust Fund
Hawaii Tapers Market Recovery Trust Fund
Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889
AFL-CIO Stabilization Trust Fund
Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund

Dear Chair Johanson and Members of the Committee:

Thank you for this opportunity to submit testimony on behalf of the Painting Industry of Hawaii Labor Management Cooperation Trust Fund; Hawaii Tapers Market Recovery Trust Fund; Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889 AFL-CIO Stabilization Trust Fund; and the Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund in support of Senate Bill 666, SD2, HD1.

This measure creates a new airports corporation that has the authority to procure construction work at the state's airports. Under the current version of this bill, any construction work procured by the proposed corporation will not be exempt from the state procurement code, Chapter 103D, Hawaii Revised Statutes, thereby ensuring that our signature contractors cannot be subject to the unethical practice of bid shopping.

While we support the current version of this bill, we note with concern that language may have inadvertently been left in the bill which might be interpreted as providing the proposed corporation with an exemption from the state procurement code. At the very least, this language may create confusion as to the intent of this bill. The language in question is found on page 49 of the House Draft 1 at lines 3-13. We respectfully ask the Committee to delete this language from the measure. The elimination of this language will clarify and ensure that the proposed corporation is subject to the state procurement code with respect to construction work.

Thank you again for this opportunity to share our support of and concern with this measure.



LATE

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO
735 Bishop Street, Suite 412 * Honolulu, Hawaii 96813
(808)524-2249 * hbctc@hawaiibuildingtrades.org

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March 18, 2019

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Painters & Allied Trades
Local 1791
Carpet, Linoleum & Soft Tile
Local 1926
Drywall, Tapers & Finishers
Local 1944
Glaziers, Architectural Metal
& Glassworkers Local 1889

TO: House Committee on Labor & Public Employment
Honorable Chair Aaron Ling Johanson
Honorable Vice Chair Stacelynn K.M. Eli
Honorable Members of the Committee

SUBJECT: Testimony in **SUPPORT** of SB666 SD2 HD1, with request to
DELETE language in SECTION 12.

Dear Chair Johanson, Vice Chair Eli, and Members of the Committee:

The Hawaii Building and Construction Trades Council (HBCTC) supports the amendments that were made in the HD1 version of this Bill. These amendments properly subject the proposed Hawaii Airports Corporation to the fair, competitive, and transparent provisions of the Hawaii State Procurement Code in Chapter 103D, and the prevailing wage requirements of Chapter 104, Hawaii Revised Statutes.

In order to be consistent with all of the amendments in this version, HBCTC suggests that the Committee **DELETE** the language on page 49, lines 3 -13, which amends Section 103D-102, Hawaii Revised Statutes, to exclude the Hawaii Airports Corporation.

We all want to be a part of making our airports better, and the proposed Hawaii Airports Corporation could prove to be a successful model to achieve that; however, we do not want to eliminate the current procurement process that protects bidding contractors and subcontractors and assures that public funds are being handled responsibly.

Thank you for the opportunity to **SUPPORT** this Bill, subject to the request to delete language that appears to have been unintentionally left in the HD1 version of this Bill.



HAWAI'I LODGING & TOURISM
A S S O C I A T I O N

LATE

Testimony of

Mufi Hannemann
President & CEO

Hawai'i Lodging & Tourism Association

Committee on Labor & Public Employment
SB 666 SD2 HD1: Relating to an Airports Corporation

Dear Chair Johanson and members of the Committee, mahalo for the opportunity to submit testimony on behalf of the Hawai'i Lodging & Tourism Association, the state's largest private sector visitor industry organization.

The Hawai'i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers — supports the forward movement of Senate Bill 666 SD2 HD1 which would establish a Hawai'i airports corporation. For HLTA, the state's largest private sector visitor industry organization, we have advocated in support of an airports authority/corporation for three years now.

The Department of Transportation is a very large state department which is responsible for our roads, harbors, and airports. Our state's airports serve as the first and last impression to those visiting our islands. Given the importance of our airports, we fully support the establishment of a state airport corporation. The corporation would give a laser-like focus to streamlining operations, increasing economic opportunities, goal setting, expediting improvements of all of our state airports, and assisting all those involved with our airports to achieve quicker and more efficient results.

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

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

Additionally, these sorely needed airport improvements will not come from the state's general fund or by tax payers dollars, rather they are paid by the airlines and concessionaires that utilize the airports coupled with the existing passenger facility fees already included in the airfares. We therefore urge the committee to reinsert the language that would authorize the Governor to appropriate a lump sum for the Airport Corporation's budget, versus subjecting it to the legislative budget process, as this would allow for more flexibility in expeditiously moving the airports improvement projects forward.

In short, HLTA supports an airport corporation as the over- arching entity to oversee our airports' planning, management and marketing and development; all under one umbrella. We urge you to pass this bill and let's work together in getting this long overdue measure on Governor Ige's desk for his approval.

Mahalo.



Eric W. Gill, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Godfrey Maeshiro, Senior Vice-President

Monday, March 18, 2019

Hawaii State Legislature
House Committee on Labor and Public Employment
State Capitol
415 South Beretania St.

Re: SB 666, SD 2, HD1 relating to an Airports Corporation

Aloha Chair Johanson and Committee Members,

UNITE HERE Local 5 – a local labor organization representing 11,000 hotel, health care and food service workers throughout Hawaii would like to offer comments in opposition to SB 666, SD2, HD1. As a Union, we represent over 900 food service concession and in-flight catering workers at airports statewide. We are concerned about how establishing an Airports Corporation would impact the future for these and other people working at the airports. However, with the right language, SB 666 can be a means to protect working people throughout the airport system, help their jobs become good jobs, protect airport system revenues, protect the tourism industry and protect the image of our state.

We thank Chair Aquino of the Transportation Committee for providing a stronger HD1 for your Committee’s consideration, but we kindly ask for your Committees support in further amending SB 666, SD2, HD1 to address the following:

- 1. Exemption from the Procurement Code:** The expenditure of public money must be done in a transparent and open way to ensure public confidence in government. More specifically, we ask that your Committee remove any reference or language that would suggest such exemptions would be allowed as currently listed on page 49, lines 11-13.
- 2. Living Wage:** Unfortunately, our airports are currently home to some of the lowest-paid jobs in the state. We believe one job should be enough for working people to put food on the table, raise a family, pay their rent or mortgage, get decent health care, send their kids to school and have a decent retirement. The state can play a role in demanding this by

instituting a living wage standard for all employers doing business within the airport areas. This should include companies that do business directly with the state as well as their subcontractors. All employees working in and around the airport should make a living wage. With SB 666, this legislature can make that a reality.

SECTION 18. The Hawaii airports corporation shall recognize all bargaining units and collective bargaining agreements existing at the time of transfer to the corporation. All employees who are subject to chapter 76, Hawaii Revised Statutes, and occupy civil service positions and whose functions are transferred to the Hawaii airports corporation by this Act shall retain their civil service status, whether permanent or temporary. The employees shall be transferred to the corporation without loss of salary, seniority (except as prescribed by applicable collective bargaining agreements), retention points, prior service credits, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act; provided that the employees meet applicable requirements for the class or position to which transferred or appointed, as applicable.

Any employee who, prior to this Act, is a member of a bargaining unit, shall remain in that

bargaining unit when future collective bargaining agreements are negotiated.

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

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

The department of transportation, the airport corporation and every employer doing business at the airports pursuant to a contract, subcontract, lease, sublease or permit or license with or from the airport corporation shall pay a wage to each of its employees

of not less than \$15.00 per hour worked, adjusted by
the cumulative increase in the cost of living. The
cost of living increase shall be measured by the
percentage increase as of December 31 in any year over
the level as of July 1, 2019 of the Consumer Price
Index (All Urban Consumers, U.S. City Average) as
published by the Bureau of Labor Statistics, U.S.
Department of Labor or the successor index or federal
agency. Tips or gratuities received by employees
shall not be credited as being any part of or offset
against the wage rate required by this section and the
wage rate may not be waived except in a bona fide
collective bargaining agreement but only if the waiver
is explicitly set forth in such agreement in clear and
unambiguous terms.

Mahalo for your consideration in improving SB 666, SD 2, HD1.

SB-666-HD-1

Submitted on: 3/19/2019 3:34:45 AM

Testimony for LAB on 3/19/2019 9:30:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

WE STRONGLY SUPPORT THIS BILL ONLY IF THE NEW CORPORATION EXISTS UNDER CONDITIONS THAT WILL REQUIRE IT TO FOLLOW PROCUREMENT PROCEDURES.

LATE



March 18, 2019

TO: House Committee on Labor & Public Employment

FROM: Blake Parsons, Executive Director

SUBJECT: Comments on *SB. 666 SD2 HD1 - Relating To An Airports Corporation*

Chair Johanson and Members of the Committee:

My name is Blake Parsons. I am the Executive Director of the Hawaii Chapter of Sheet Metal & Air Conditioning Contractors' National Association, a trade group that represents the management of unionized sheet metal and air conditioning contractors across the state.

We **support** SD666 SD2 HD1 *as amended* on March 15th by the House Committee on Transportation, and respectfully request that your committee uphold their amendments.

We want to commend the House Committee on Transportation for their forward thinking by ensuring the prospective Airports Corporation is subject to the State's Procurement Code.

The State's Procurement Code ensures small subcontractors like my members - and thousands of small businesses across our state - have a fair and level playing field when bidding state projects. If they were *not* protected by the State's Procurement code and prime contractors were *not* subject to the subcontractor listing requirement, the process would incite bid shopping and would *reduce* the pool of subcontractors interested in bidding state projects.

Thank you for the opportunity to submit testimony in support of SD666 SD2 HD1 as amended on March 15 by the House Committee on Transportation.

Mahalo,

A handwritten signature in black ink, appearing to be "Blake Parsons".

Blake Parsons

Executive Director

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

LATE

Uploaded via Capitol Website

March 13, 2019

TO: HONORABLE REP. AARON LING JOHANSON, CHAIR, REP. STACELYNN K.M. ELI, VICE CHAIR, AND THE MEMBERS OF THE HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

SUBJECT: TESTIMONY IN OPPOSITION OF SB666 SD2, HD1: RELATING TO AN AIRPORTS CORPORATION.

Hearing

DATE: Wednesday, March 13, 2019
TIME: 10:00a.m.
PLACE: Conference Room 423
Hawaii State Capitol

Dear

The General Contractors Association of Hawaii (GCA) is an organization comprised of over five hundred general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA opposes the current language in SB666 SD2, HD1 specifically in relation to procurement. GCA does support the establishment of the Hawaii Airports Corporation within the Department of Transportation for administrative purposes, but with the condition that the language in previous drafts of SB666 that allowed for the potential of an expedited procurement process without subcontractor listing be restored.

The subcontractor listing requirement in Hawaii's current procurement law has become the dominant factor in bid protests which delays projects and cost taxpayers. Bids that do not comply with this requirement may be considered non-responsive and be disqualified for consideration.

The subcontractor listing requirement has been used beyond its legislative intent by many bidders to identify faults of winning bids. This has resulted in delays in awarding contracts to address these protests and, in the event the low bidder is disqualified, additional cost to the State if the contract is awarded to a higher bidder.

GCA agrees that the well-being of the State is substantially dependent on the efficient administration, development, management, and operation of its airports and transportation infrastructure. Allowing for a procurement process that could provide for an exemption from the subcontractor listing requirement when establishing the Airport Authority should help to expedite the improvements needed.

We are in full support of a previous draft of SB666 which clarified the exemption of the Hawaii Airports Corporation from chapter 103D, Hawaii Revised Statutes; and required that prior to exemption from chapter 103D, Hawaii Revised Statutes, the Hawaii Airports Corporation, in consultation with the State Procurement Office, adopt procurement rules pursuant to chapter 91, Hawaii Revised Statutes.

In its current draft, GCA opposes SB666 SD2, HD1. Thank you for the opportunity to share our opposition.



Founded 1889

PLUMBERS AND FITTERS LOCAL 675 UNITED ASSOCIATION



LATE

March 18, 2019

Representative Aaron Johanson, Chair
Representative Stacelynn Eli, Vice Chair
House Committee on Labor and Public Employment
State Capitol, 415 South Beretania Street, Room 309
Honolulu, Hawaii 96813

Re: SB666, SD2 HD1 Relating To An Airport Corporation
Tuesday, March 19, 2019 at 09:30 am

Aloha Chair, Vice-Chair, and Committee Members;

Chartered in 1919, the Plumbers and Fitters UA, Local 675 is one of the oldest organized labor unions in Hawai'i and one of three 'licensed' skilled-construction trades, steeped in a rich history as one of Hawai'i's construction-industry pioneers.

The Plumber and Fitters UA Local 675, Business Manager Val Ceria and its nearly 2,300 hard-working members and their families, we would like to thank this Committee for considering SB666, SD1 HD1 relating to an Airports Corporation, which authorizes the establishment of such a Corporation within the Department of Transportation.

Local 675 appreciates and SUPPORTS SB666, SD2 HD1's expressed intent to consolidate management and oversight of Hawaii's airports, including responsibility for its development, management, operation, and maintenance, to maximize the contribution of the State's airports to Hawaii's economy, and as noted in committee report 1369 as it relates to HD1, ensuring the proposed Airports Corporation shall be subject to chapters 103D and 104 (HRS). **Please note, however, that conflicting language found on page 49 of HD1, lines 11-13, may create confusion and unintended consequences. As such, Local 675 respectfully requests that this language be deleted if the bill moves forward.**

State Procurement, specifically chapter 103D (HRS) is very important to the construction trades, as it provides transparency and ensures that public funds are expended in a fair, responsive and responsible manner. Further, provisions found in 103D ensures that contractors who participate in publicly sponsored projects are properly licensed and qualified to perform the contracted work. We believe such processes minimize unqualified bidders, post-award protests and bid-shopping.

As proposed, the Airports Corporation will be granted a considerable level of independence and autonomy. As such, maintaining reasonable checks and balances as provided by the inclusion of chapter 103D (HRS) ensures that the public's interests are protected.

Mahalo for considering amendments to clarify that chapter 103D and 104 shall apply.