
A BILL FOR AN ACT

RELATING TO GOVERNMENT.

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

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PART I

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SECTION 1. The legislature finds that the rail project for
3 the City and County of Honolulu, as undertaken by the Honolulu
4 authority for rapid transportation (authority), is the largest
5 public works project in state history. However, the rail
6 project has been plagued by cost overruns and delays. The
7 legislature notes that the price tag for the project has risen
8 from \$5,260,000,000 to over \$9,200,000,000, and is now six years
9 behind the original schedule. The legislature approved a
10 \$2,400,000,000 bailout in 2017, subject to the condition that
11 the project be audited by the State and use of the state
12 surcharge be limited to specific construction costs.

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The legislature instructed the state auditor to audit the
management and other aspects of the rail. The legislature also
instructed the comptroller to ensure that requests for payment
for capital costs incurred by the authority meet the criteria to



1 utilize the state surcharge specified in Act 1, Special Session
2 Laws of Hawaii 2017 (Act 1).

3 The auditor has produced or is in the process of producing
4 a number of reports, as part of the primary audit, which include
5 the following:

- 6 (1) History of the project;
- 7 (2) Internal structure of the authority;
- 8 (3) Overview of the department of accounting and general
9 services' process to ensure payments of the
10 authority's invoices meet the criteria of Act 1; and
- 11 (4) The invoice processes for payments of invoices, to
12 ensure consistency with contract terms.

13 However, the primary audit, which is intended to evaluate the
14 project's internal controls to contain costs through the
15 evaluation of the project change orders, has not been completed
16 in its entirety. The auditor has yet to conduct an auditing
17 sample of large contracts, including a construction control
18 assessment and construction change order assessment. The
19 auditor has also not completed an evaluation of the internal
20 controls for cost and quality.



1 The oversight of the current invoices has been implemented
2 through the joint efforts of the auditor and comptroller. The
3 legislature acknowledges the need to avoid duplication of effort
4 in the oversight duties of the comptroller and state auditor but
5 believes that the completion of the audit is essential to
6 control costs and alleviate the financial burden placed upon
7 taxpayers.

8 The legislature further finds that in February 2019, the
9 authority received three federal grand jury subpoenas. The
10 legislature notes that the completion of the state audit of the
11 authority is for the purpose of fulfilling the legislature's
12 intent when passing Act 1, and is not intended to jeopardize or
13 otherwise interfere in any way with the current federal
14 investigation. The legislature believes that the audit
15 originally contemplated and authorized by Act 1 can be completed
16 separately from the federal investigation and can be
17 accomplished in a manner that does not interfere with the
18 current federal probe.

19 The purpose of this Act is to ensure continued
20 accountability of the rail project as undertaken by the Honolulu
21 authority for rapid transportation, including completion of the



1 state audit authorized by Act 1, while eliminating any
2 duplication between the auditor and comptroller.

3 PART II

4 SECTION 2. Section 23-14, Hawaii Revised Statutes, is
5 repealed.

6 ~~["§23-14] Rapid transportation authority; annual review.~~

7 ~~(a) Beginning on September 5, 2017, and ending on December 31,~~
8 ~~2031, the auditor, on an annual basis, shall conduct a review of~~
9 ~~any rapid transportation authority in the State charged with the~~
10 ~~responsibility of constructing, operating, or maintaining a~~
11 ~~locally preferred alternative for a mass transit project that~~
12 ~~receives moneys from a surcharge on state tax established~~
13 ~~pursuant to section 46-16.8, transient accommodations tax~~
14 ~~revenues pursuant to section 237D-2(e), or both. The annual~~
15 ~~review shall include a review of documents, including but not~~
16 ~~limited to invoices, contracts, progress reports, and time~~
17 ~~schedules, to determine that:~~

- 18 ~~(1) Expenditures by the authority comply with the criteria~~
19 ~~established pursuant to section 46-16.8(e); and~~
20 ~~(2) The authority follows accounting best practices for~~
21 ~~substantiating its expenditures.~~



1 The legislature acknowledges that the auditor has completed
2 certain portions of the audit authorized by Act 1. The
3 legislature believes that further specifying the direction and
4 scope the auditor should take will better enable the auditor to
5 complete the remainder of the Act 1 audit.

6 Accordingly, the purpose of this part is to provide the
7 office of the auditor with specific direction and scope to
8 complete the audit of the Honolulu authority for rapid
9 transportation, as well as funding needed to complete the audit.

10 SECTION 4. (a) The state auditor shall continue the audit
11 of the Honolulu authority for rapid transportation authorized by
12 Act 1, Special Session Laws of Hawaii 2017.

13 (b) When completing the audit, the state auditor shall
14 examine the scope of services of the audit, including an
15 analysis of the construction management of the Honolulu
16 authority for rapid transportation. The analysis shall include
17 but not be limited to:

18 (1) An assessment of all the oral and written processes,
19 procedures, polices, practices, internal controls, and
20 cost controls associated with the Honolulu authority



1 for rapid transportation's management of the Honolulu
2 rail transit project; and

3 (2) An evaluation of change orders as identified by the
4 state auditor, including but not limited to an
5 assessment of expenditures and payments to
6 contractors, subcontractors, and consultants, for the
7 time periods identified by the state auditor.

8 (c) If the state auditor determines that engaging a
9 contractor to perform portions of the audit is required, the
10 contractor shall pursue its scope of work and prepare a report
11 in a manner and format that is satisfactory to and approved by
12 the state auditor. Prior to commencement, the contractor shall
13 review its scope of work and subsequently prepare and discuss
14 the contractor's proposed plan to complete its scope of work,
15 which shall be approved by the state auditor prior to commencing
16 examination. Thereafter, the contractor shall report its
17 progress to the state auditor as frequently as required by the
18 state auditor. The audit examination time period shall be
19 determined by the state auditor.

20 (d) To effectuate the purpose of this section, the state
21 auditor shall have all the powers established pursuant to



1 chapter 23, Hawaii Revised Statutes, including the power to
2 subpoena the production of any documents from the Honolulu
3 authority for rapid transportation that may be necessary to
4 complete the audit required by this section.

5 (e) The state auditor shall report the auditor's findings
6 and recommendations to the legislature, director of finance, and
7 board of directors of the Honolulu authority for rapid
8 transportation no later than twenty days prior to the convening
9 of the regular session of 2020.

10 SECTION 5. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so
12 much thereof as may be necessary for fiscal year 2019-2020 and
13 the same sum or so much thereof as may be necessary for fiscal
14 year 2020-2021 for the auditor to conduct an audit of the
15 Honolulu authority for rapid transportation.

16 The sums appropriated shall be expended by the office of
17 the auditor for the purposes of this Act.

18 **PART IV**

19 SECTION 6. Section 40-81.5, Hawaii Revised Statutes, is
20 amended to read as follows:



1 " [{}§40-81.5[{}] Rapid transportation authority;
2 certification statement. (a) Beginning on September 5, 2017,
3 and ending on December 31, 2031, the comptroller, upon the
4 request for payment by the rapid transportation authority, shall
5 verify that the authority's invoices for the capital costs of a
6 locally preferred alternative for a mass transit project comply
7 with section 46-16.8(e).

8 (b) The rapid transportation authority subject to this
9 section shall provide the comptroller with:

10 (1) The authority's financial plan and related systems for
11 accounting, including a budget for a locally preferred
12 alternative for a mass transit project;

13 (2) Expenditures for capital costs for a locally preferred
14 alternative for a mass transit project;

15 (3) Expenditures for personnel costs, lease rent, and any
16 other costs associated with the authority's management
17 and operations; and

18 (4) Any other information the comptroller may require to
19 accomplish the purpose of this section.

20 (c) After submission of invoices by the rapid
21 transportation authority for capital costs of a locally



1 preferred alternative for a mass transit project are verified by
2 the comptroller as an acceptable use of funds received pursuant
3 to a surcharge on state tax authorized pursuant to section
4 46-16.8, the comptroller shall submit a certification statement,
5 including any appropriate supporting documents, to the
6 department of budget and finance for the allocation of funds, if
7 available, pursuant to sections 248-2.7 and 248-2.6(d). The
8 certification statement shall include, at a minimum, the total
9 amount contained in the invoices for capital costs that are
10 verified as an appropriate use of funds pursuant to section
11 46-16.8(e).

12 (d) The comptroller may establish rules, exempt from
13 chapter 91, for the purposes of this section.

14 (e) The comptroller shall withhold any vendor contracts
15 reimbursements until the state auditor has received from any
16 applicable party that was requested to submit documents to the
17 state auditor that pertain to the reimbursement request,
18 including but not limited to the documents requested pursuant to
19 the auditor's subpoena powers pursuant to section 23-5 or any
20 other law.



Report Title:

Auditor; Rapid Transportation Authority; Annual Review; Repeal;
Comptroller; Appropriation

Description:

Repeals the requirement that the auditor conduct an annual review of certain rapid transit authorities in the State. Provides the auditor with specific direction and scope to complete the audit authorized by Act 1, SSLH 2017. Appropriates funds for the auditor to complete an audit of the Honolulu authority for rapid transportation. Requires the comptroller to withhold vendor contracts reimbursement until the state auditor has received all documents that pertain to the reimbursement request. Repeals appointment of two non-voting ex-officio members to the board of directors of the county's rapid transportation authority authorized by Act 1, SSLH 2017.

(Proposed SD1)

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

