

JAN 24 2019

A BILL FOR AN ACT

RELATING TO AIRPORTS.

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

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

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1 transportation system and infrastructure would be achieved more
2 effectively by establishing and giving a separate state entity
3 overall jurisdiction and responsibility for aeronautics and the
4 State's airports.

5 The department of transportation further finds that the
6 establishment of a separate airports corporation would assist in
7 the achievement of the following important statewide objectives:

- 8 (1) Maximizing the contribution of the State's airports to
9 Hawaii's economy;
- 10 (2) Ensuring dedicated expert airport leadership,
11 management continuity, and year-round decision-making,
12 consistent with industry best practices;
- 13 (3) Improving administrative efficiency by streamlining
14 administrative processes;
- 15 (4) Accelerating the planning and implementation of the
16 state airports' capital improvement programs;
- 17 (5) Increasing the financial flexibility and strength of
18 the State's airports;
- 19 (6) Increasing economic opportunities for the State, in
20 collaboration with the Hawaii tourism authority;
- 21 (7) Increasing responsiveness to consumer needs,
22 commercial opportunities, and economic demands; and

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1 (8) Maximizing job creation within the State.

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

5 The purpose of this Act is to establish the Hawaii airports
6 corporation, which shall assume all of the authority, powers,
7 functions, duties, and responsibilities of the department of
8 transportation related to aeronautics and airports, including
9 responsibility for the development, management, operation, and
10 maintenance of the State's airports, on and after the transfer
11 completion date announced by the Hawaii airports corporation
12 pursuant to section 14(b) of this Act.

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

16 "CHAPTER

17 HAWAII AIRPORTS CORPORATION

18 PART I. GENERAL PROVISIONS

19 § -1 Definitions. As used in this chapter:

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

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

3 "Airport" shall have the same meaning as defined in section
4 261-1.

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

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

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

11 **§ -2 Airports corporation; establishment; board;**
12 **members; chief executive officer.** (a) There is established the
13 Hawaii airports corporation to develop and implement management
14 structures, policies, and procedures based on airport industry
15 best practices, to efficiently develop, manage, operate, and
16 maintain the State's airports and aeronautical facilities, and
17 to administer the provisions of chapters 261, 261D, and
18 262. The corporation shall be a body politic and corporate, and
19 an instrumentality and agency of the State, placed within the
20 department of transportation for administrative purposes only,
21 and shall enjoy the same sovereign immunity available to the
22 State. The corporation shall not be subject to supervision by

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1 the department of transportation or its director. Further,
2 section 26-35(a)(1), (4), (5), and (6) shall not apply to the
3 airports corporation.

4 (b) The powers of the airports corporation shall be vested
5 in and exercised by a board of directors, which shall consist of
6 nine voting members, who shall be appointed by the governor
7 pursuant to section 26-34; provided that there shall be one
8 member who is a resident of each of the counties of Hawaii,
9 Kauai, and Maui, and the city and county of Honolulu and one
10 member representing aviation interests. Senate confirmation of
11 members shall not be required. All members shall be appointed
12 for terms of four years; provided that the governor shall
13 stagger the initial terms pursuant to section 26-34(a).

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

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

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

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

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

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

- 19 (1) Not be a member of the board;
- 20 (2) Be exempt from chapters 76 and 89; and
- 21 (3) Receive a salary fixed by the board.

22 (i) The chief executive officer:

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- 1 (1) Shall be selected based on criteria approved by the
2 board, including experience in airport management at
3 an executive level at a large-hub or medium-hub
4 airport within the United States, management of large-
5 scale capital programs, and domestic and international
6 air service development;
- 7 (2) Shall be appointed by an affirmative vote of not less
8 than five members of the board;
- 9 (3) Shall be employed subject to a formal contract, the
10 terms of which shall be approved by the board;
11 provided that the terms shall include provisions for
12 the removal of the chief executive officer whether
13 with or without cause;
- 14 (4) May be removed from office only by a vote of not less
15 than five members of the board; provided that the
16 basis for removal is consistent with the terms of the
17 chief executive officer's employment contract;
- 18 (5) Shall have the powers as described in this chapter and
19 chapters 261, 261D, and 262, as may be delegated by
20 the board;
- 21 (6) Shall, except when excused by the board, attend all
22 meetings of the board, keep a record of the

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1 proceedings, and maintain and be the custodian of the
2 official seal of the corporation and all books,
3 records, documents, and papers filed with the
4 corporation;

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

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

10 (9) Shall do all things necessary, as directed by the
11 board, to carry out the powers and duties conferred
12 upon the corporation by this chapter and chapters 261,
13 261D, and 262.

14 (j) Upon the vacancy of the position of the chief
15 executive officer, the board of directors shall designate a
16 deputy executive officer or other employee of the corporation to
17 serve as the chief executive officer of the corporation until
18 the vacancy is filled by the board. This interim chief
19 executive officer shall have all of the powers and
20 responsibilities, and receive the salary, of the chief executive
21 officer.

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

6 § -3 Powers; generally. (a) The Hawaii airports
7 corporation, by and through its board of directors:

- 8 (1) Shall exercise power and control over all airports,
9 air navigation facilities, buildings, and other
10 facilities that the corporation is responsible for
11 managing, operating, or controlling under the
12 provisions of this chapter and chapters 261, 261D, and
13 262;
- 14 (2) Shall provide as appropriate for the landing, taking-
15 off, and servicing of aircraft, and the loading and
16 unloading of passengers and cargo at all airports
17 under the control of the corporation;
- 18 (3) Shall establish performance targets and performance
19 standards for all state airports to achieve the
20 highest levels of customer service;
- 21 (4) Shall ensure that appropriate mission statements,
22 business plans, minimum development standards, and

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1 strategic goals are established and that progress
2 towards their accomplishment is regularly assessed and
3 reported;

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

7 (6) Shall be exempt from the provisions of chapter 103D,
8 provided that:

9 (A) A chief procurement officer position shall be
10 created to oversee a centralized set of
11 procurement professionals to conduct procurement;

12 (B) The board of directors shall maintain internal
13 policies and procedures for the timely and
14 efficient procurement of goods and services,
15 including planning, engineering, and construction
16 services, to include post-award contract
17 management and oversight procedures, that are
18 consistent with the goals of public
19 accountability and public procurement practices;

20 (C) Procurement policies shall be published and
21 available to the public;

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- 1 (D) The corporation shall implement and maintain an
2 electronic procurement system to ensure
3 electronic posting, to include requisition-to-
4 check, contract management, and spend analysis
5 modules. All solicitations, including any bid
6 openings, and additional solicitation documents
7 shall be available online;
- 8 (E) The corporation shall develop key performance
9 indicators covering the following four areas:
- 10 (i) Effective management and increased efficiency
11 of the procurement process;
- 12 (ii) Contract management and supplier performance;
- 13 (iii) Transparency, openness, and accountability of
14 procurement processes; and
- 15 (iv) Professionalism of the procurement workforce;
- 16 (F) The corporation shall develop a robust training
17 and procurement delegation system;
- 18 (G) Professional services contracts for licensees
19 under chapter 464 shall be procured in accordance
20 with section 103D-304; whereas all other services
21 may be procured using best value competitive
22 proposals and using, insofar as practical,

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

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- 1 (7) Shall have an official seal and may alter the official
2 seal at its pleasure;
- 3 (8) May make, execute, or assume contracts, leases, and
4 all other instruments necessary or convenient for the
5 exercise of its powers and functions under this
6 chapter and chapters 261, 261D, and 262;
- 7 (9) Shall establish bylaws for its organization and
8 internal management;
- 9 (10) Shall adopt rules pursuant to chapter 91 as necessary
10 to implement the provisions of this chapter and
11 chapters 261, 261D, and 262;
- 12 (11) Shall prepare and adopt the corporation's operating
13 and capital budgets;
- 14 (12) May own, purchase, lease, exchange, or otherwise
15 acquire property, whether real, personal, or mixed,
16 tangible or intangible, and any interest therein, in
17 the name of the corporation, and may assign, exchange,
18 transfer, convey, lease, sublease, or encumber the
19 same or any project, improvement, or facility related
20 thereto; provided that the lands to which the
21 corporation holds title shall not be subject to
22 chapter 171; provided further that any sale, gift, or

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

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

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

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

19 (16) Shall assume from the department of transportation:

20 (A) That:

21 (i) Certain Certificate of the Director of

22 Transportation Providing for the Issuance of

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1 State of Hawaii Airports System Revenue
2 Bonds dated as of May 1, 1969, relating to
3 certain revenue bonds and other obligations;

4 (ii) Certain Indenture of Trust dated as of
5 December 1, 2013, between the department of
6 transportation and U.S. Bank National
7 Association relating to certain certificates
8 of participation; and

9 (iii) Certain Indenture of Trust dated as of August
10 1, 2014, between the department of
11 transportation and MUFG Union Bank, N.A.,
12 relating to certain customer facility charge
13 revenue bonds, each as supplemented and
14 amended to date; and

15 (B) The bonds, notes, and other obligations of the
16 department of transportation outstanding under,
17 as well as the covenants, restrictions, and other
18 requirements set forth in, those documents;

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

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1 (18) Shall fix, impose, prescribe, and collect rates,
2 rentals, fees, or charges for the lease, use, and
3 services of its airport facilities at least sufficient
4 to pay the costs of operation, maintenance, and
5 repair, if any, and the required payments of the
6 principal of and interest on all bonds, notes, or
7 other obligations issued or assumed by the airports
8 corporation and reserves therefor; provided that the
9 rates, rentals, fees, or charges are established at an
10 open meeting subject to the requirements of chapter
11 92;

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

22 (20) May invest and secure its moneys;

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1 (21) May exercise the power of eminent domain pursuant to
2 chapter 101 and in accordance with sections 261-31 to
3 261-36, to acquire real property for the corporation
4 with which to carry out the provisions of this chapter
5 and chapters 261, 261D, or 262;

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

8 (23) Shall cooperate with the department of land and
9 natural resources to provide an annual accounting of
10 all receipts from lands described in section 5(f) of
11 the Admission Act, Public Law 86-3, for the prior
12 fiscal year, pursuant to section 5 of Act 178, Session
13 Laws of Hawaii 2006; and

14 (24) May do any and all things necessary to exercise the
15 powers and perform the duties conferred upon the
16 corporation by this chapter and chapters 261, 261D,
17 and 262.

18 (b) The corporation shall not be subject to chapters 36,
19 37, 37D, 38, and 40, except for section 36-28.5 and as otherwise
20 provided in this chapter and chapter 261.

21 (c) The airports corporation may sue and be sued in its
22 corporate name. Notwithstanding any other law to the contrary,

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1 all claims arising out of the acts or omissions of the airports
2 corporation or the members of its board, its officers, or its
3 employees, including claims permitted against the State under
4 chapter 661, part I, and claims for torts permitted against the
5 State under chapter 662, may be brought only pursuant to this
6 section and only against the airports corporation. However, the
7 airports corporation shall be subject to suit only in the manner
8 provided for suits against the State, including section 661-
9 11. All defenses available to the State, as well as all
10 limitations on actions against the State, shall be applicable to
11 the airports corporation.

12 The board of directors, upon the advice of its attorney,
13 may arbitrate, compromise, or settle any claim, action, or suit
14 brought against the airports corporation pursuant to this
15 section. Any claim compromised or settled under this subsection
16 shall be payable solely from the moneys and property of the
17 airports corporation and shall not constitute a general
18 obligation of the State or be secured directly or indirectly by
19 the full faith and credit of the State or the general credit of
20 the State or by any revenue or taxes of the State. Nothing in
21 this subsection shall preclude the board of directors from
22 requesting legislative appropriations to fund the settlement of

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1 any claim or judgment against the airports corporation or its
2 officers, employees, or agents.

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

10 (d) The corporation shall be a "jurisdiction" and an
11 "appointing authority" under chapter 76 and an "appropriate
12 authority" for those of its officers and employees who are
13 excluded employees under chapter 89C. In addition to its chief
14 executive officer, the corporation may employ executive
15 officers, including a chief procurement officer appointed by the
16 chief executive officer who are qualified to fill positions
17 established in the bylaws of the corporation adopted by the
18 board of directors, to perform functions and exercise powers
19 assigned by the bylaws or delegated by the board or the chief
20 executive officer. The other executive officers of the
21 corporation, and up to fifteen additional specially qualified
22 employees appointed by the chief executive officer shall be

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1 exempt from chapters 76 and 89. All other persons employed by
2 the corporation shall be subject to chapters 76 and 89, and
3 rules adopted to implement those provisions, unless expressly
4 exempted from the civil service under chapter 76 or excluded
5 from collective bargaining under chapter 89. The officers and
6 personnel of the corporation shall be included in all benefit
7 programs applicable to officers and employees of the State.

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

17 **PART II. BUDGET AND FINANCE**

18 § -11 **Exemptions.** The airport revenue fund, passenger
19 facility charge special fund, and rental motor vehicle customer
20 facility charge special fund shall be exempt from chapters 36,
21 37, 37D and 40.

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1 § -12 **Fiscal provisions.** (a) The corporation's board
2 of directors shall establish guidelines for preparing the
3 corporation's annual operating and capital budget proposals that
4 take into account anticipated receipts, surpluses, reserves, and
5 funds from any other source, on deposit in or available for
6 deposit into the airport revenue fund, the passenger facility
7 charge special fund, the rental motor vehicle customer facility
8 charge special fund, or any other special or revolving fund that
9 the legislature may establish for the corporation.

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

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

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

4 (e) Notwithstanding sections 37-71 and 37-72, the governor
5 shall include in the executive budget one lump sum for each
6 means or source of funds for the corporation's operating and
7 capital budget proposals in the amounts specified in the budget
8 proposals transmitted to the governor by the department of
9 transportation pursuant to subsection (b).

10 (f) The legislature shall appropriate one lump sum for
11 each means or source of funding for the corporation's operating
12 budget and for the corporation's capital budget.

13 § -13 **Budget oversight.** The corporation's operating and
14 capital budgets shall not be subject to review or approval by
15 the governor or any agency of the executive branch, except where
16 state general funds are requested.

17 § -14 **Accounts; depositories.** (a) Appropriations for
18 the corporation shall not be subject to any allotment system or
19 requirements. The director of finance shall notify the
20 corporation and the comptroller that all of the appropriations
21 for the corporation for the fiscal year have been allotted and
22 are available for expenditure as soon as possible, and in no

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1 event more than three business days, after the general or
2 supplemental appropriation act is effective.

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

11 § -15 **Expenditures in excess of appropriations.** If in
12 any fiscal year the amount of revenues deposited into the
13 airport revenue fund exceeds the amount appropriated from that
14 fund for that year, the board of directors of the corporation
15 may approve expenditures in excess of the amount appropriated,
16 up to the amount by which revenues for that fund exceed the
17 appropriations from that fund for a fiscal year.

18 § -16 **Issuance of bonds.** On an annual basis, and upon
19 request of the corporation, the legislature shall authorize one
20 lump sum for each means or source of funds for each of the
21 following types of bonds to be issued by the

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1 corporation: revenue bonds, refunding revenue bonds, and
2 special facility revenue bonds."

3 § -17 Audits. The auditor shall conduct management and
4 financial audits of the corporation for fiscal year 2022 and
5 every second year thereafter.

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

8 "§26-19 Department of transportation. The department of
9 transportation shall be headed by a single executive to be known
10 as the director of transportation. The department shall
11 establish, maintain, and operate transportation facilities of
12 the State, including highways, [~~airports,~~] harbors, and such
13 other transportation facilities and activities, other than
14 airports and aeronautics, as may be authorized by law.

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

19 The department shall develop and promote ridesharing
20 programs which shall include but not be limited to, carpool and
21 vanpool programs, and may assist organizations interested in
22 promoting similar programs, arrange for contracts with private

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1 organizations to manage and operate these programs, and assist
2 in the formulation of ridesharing arrangements. Ridesharing
3 programs include informal arrangements in which two or more
4 persons ride together in a motor vehicle.

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

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

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

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

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

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- 1 (1) By the public utilities commission, the labor and
2 industrial relations appeals board, and the Hawaii
3 labor relations board;
- 4 (2) By any court or judicial or legislative office of the
5 State; provided that if the attorney general is
6 requested to provide representation to a court or
7 judicial office by the chief justice or the chief
8 justice's designee, or to a legislative office by the
9 speaker of the house of representatives and the
10 president of the senate jointly, and the attorney
11 general declines to provide such representation on the
12 grounds of conflict of interest, the attorney general
13 shall retain an attorney for the court, judicial, or
14 legislative office, subject to approval by the court,
15 judicial, or legislative office;
- 16 (3) By the legislative reference bureau;
- 17 (4) By any compilation commission that may be constituted
18 from time to time;
- 19 (5) By the real estate commission for any action involving
20 the real estate recovery fund;
- 21 (6) By the contractors license board for any action
22 involving the contractors recovery fund;

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- 1 (7) By the office of Hawaiian affairs;
- 2 (8) By the department of commerce and consumer affairs for
- 3 the enforcement of violations of chapters 480 and
- 4 485A;
- 5 (9) As grand jury counsel;
- 6 (10) By the Hawaii health systems corporation, or its
- 7 regional system boards, or any of their facilities;
- 8 (11) By the auditor;
- 9 (12) By the office of ombudsman;
- 10 (13) By the insurance division;
- 11 (14) By the University of Hawaii;
- 12 (15) By the Kahoolawe island reserve commission;
- 13 (16) By the division of consumer advocacy;
- 14 (17) By the office of elections;
- 15 (18) By the campaign spending commission;
- 16 (19) By the Hawaii tourism authority, as provided in
- 17 section 201B-2.5;
- 18 (20) By the division of financial institutions;
- 19 (21) By the office of information practices; [~~e~~]
- 20 (22) By the Hawaii airports corporation; or
- 21 [~~(22)~~] (23) By a department, if the attorney general, for
- 22 reasons deemed by the attorney general to be good and

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1 sufficient, declines to employ or retain an attorney
2 for a department; provided that the governor waives
3 the provision of this section."

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

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

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

19 "(b) Any provision in this section to the contrary
20 notwithstanding, the Hawaii airports corporation, the University
21 of Hawaii (as to casualty insurance risks only), the Research
22 Corporation of the University of Hawaii (as to casualty

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1 insurance risks only), the public health facilities of the
2 department of health (with respect to medical malpractice risks
3 only), and the Hawaii health systems corporation and its
4 regional system boards shall be exempt from the requirements of
5 this chapter."

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

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

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

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

- 20 (1) Commissioned and enlisted personnel of the Hawaii
21 National Guard as such, and positions in the Hawaii
22 National Guard that are required by state or federal

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1 laws or regulations or orders of the National Guard to
2 be filled from those commissioned or enlisted
3 personnel;

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

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

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

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

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- 1 (6) Positions filled by popular vote;
- 2 (7) Department heads, officers, and members of any board,
3 commission, or other state agency whose appointments
4 are made by the governor or are required by law to be
5 confirmed by the senate;
- 6 (8) Judges, referees, receivers, masters, jurors, notaries
7 public, land court examiners, court commissioners, and
8 attorneys appointed by a state court for a special
9 temporary service;
- 10 (9) One bailiff for the chief justice of the supreme court
11 who shall have the powers and duties of a court
12 officer and bailiff under section 606-14; one
13 secretary or clerk for each justice of the supreme
14 court, each judge of the intermediate appellate court,
15 and each judge of the circuit court; one secretary for
16 the judicial council; one deputy administrative
17 director of the courts; three law clerks for the chief
18 justice of the supreme court, two law clerks for each
19 associate justice of the supreme court and each judge
20 of the intermediate appellate court, one law clerk for
21 each judge of the circuit court, two additional law
22 clerks for the civil administrative judge of the

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1 circuit court of the first circuit, two additional law
2 clerks for the criminal administrative judge of the
3 circuit court of the first circuit, one additional law
4 clerk for the senior judge of the family court of the
5 first circuit, two additional law clerks for the civil
6 motions judge of the circuit court of the first
7 circuit, two additional law clerks for the criminal
8 motions judge of the circuit court of the first
9 circuit, and two law clerks for the administrative
10 judge of the district court of the first circuit; and
11 one private secretary for the administrative director
12 of the courts, the deputy administrative director of
13 the courts, each department head, each deputy or first
14 assistant, and each additional deputy, or assistant
15 deputy, or assistant defined in paragraph (16);

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

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- 1 (11) (A) Teachers, principals, vice-principals, complex
- 2 area superintendents, deputy and assistant
- 3 superintendents, other certificated personnel,
- 4 not more than twenty noncertificated
- 5 administrative, professional, and technical
- 6 personnel not engaged in instructional work;
- 7 (B) Effective July 1, 2003, teaching assistants,
- 8 educational assistants, bilingual/bicultural
- 9 school-home assistants, school psychologists,
- 10 psychological examiners, speech pathologists,
- 11 athletic health care trainers, alternative school
- 12 work study assistants, alternative school
- 13 educational/supportive services specialists,
- 14 alternative school project coordinators, and
- 15 communications aides in the department of
- 16 education;
- 17 (C) The special assistant to the state librarian and
- 18 one secretary for the special assistant to the
- 19 state librarian; and
- 20 (D) Members of the faculty of the University of
- 21 Hawaii, including research workers, extension
- 22 agents, personnel engaged in instructional work,

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1 and administrative, professional, and technical
2 personnel of the university;

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

5 (13) (A) Positions filled by inmates, patients of state
6 institutions, persons with severe physical or
7 mental disabilities participating in the work
8 experience training programs;

9 (B) Positions filled with students in accordance with
10 guidelines for established state employment
11 programs; and

12 (C) Positions that provide work experience training
13 or temporary public service employment that are
14 filled by persons entering the workforce or
15 persons transitioning into other careers under
16 programs such as the federal Workforce Investment
17 Act of 1998, as amended, or the Senior Community
18 Service Employment Program of the Employment and
19 Training Administration of the United States
20 Department of Labor, or under other similar state
21 programs;

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- 1 (14) A custodian or guide at Iolani Palace, the Royal
2 Mausoleum, and Hulihee Palace;
- 3 (15) Positions filled by persons employed on a fee,
4 contract, or piecework basis, who may lawfully perform
5 their duties concurrently with their private business
6 or profession or other private employment and whose
7 duties require only a portion of their time, if it is
8 impracticable to ascertain or anticipate the portion
9 of time to be devoted to the service of the State;
- 10 (16) Positions of first deputies or first assistants of
11 each department head appointed under or in the manner
12 provided in section 6, article V, of the Hawaii State
13 Constitution; [~~three~~] two additional deputies or
14 assistants either in charge of the
15 highways [~~7~~] and harbors [~~7~~, ~~and~~ ~~airports~~] divisions or
16 other functions within the department of
17 transportation as may be assigned by the director of
18 transportation, with the approval of the governor;
19 four additional deputies in the department of health,
20 each in charge of one of the following: behavioral
21 health, environmental health, hospitals, and health
22 resources administration, including other functions

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1 within the department as may be assigned by the
2 director of health, with the approval of the governor;
3 an administrative assistant to the state librarian;
4 and an administrative assistant to the superintendent
5 of education;

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

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

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

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

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

21 (20) Employees in the department of education engaged in
22 the supervision of students during meal periods in the

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- 1 distribution, collection, and counting of meal
2 tickets, and in the cleaning of classrooms after
3 school hours on a less than half-time basis;
- 4 (21) Employees hired under the tenant hire program of the
5 Hawaii public housing authority; provided that not
6 more than twenty-six per cent of the authority's
7 workforce in any housing project maintained or
8 operated by the authority shall be hired under the
9 tenant hire program;
- 10 (22) Positions of the federally funded expanded food and
11 nutrition program of the University of Hawaii that
12 require the hiring of nutrition program assistants who
13 live in the areas they serve;
- 14 (23) Positions filled by persons with severe disabilities
15 who are certified by the state vocational
16 rehabilitation office that they are able to perform
17 safely the duties of the positions;
- 18 (24) The sheriff;
- 19 (25) A gender and other fairness coordinator hired by the
20 judiciary;
- 21 (26) Positions in the Hawaii National Guard youth and adult
22 education programs; [and]

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1 (27) In the state energy office in the department of
2 business, economic development, and tourism, all
3 energy program managers, energy program specialists,
4 energy program assistants, and energy analysts[-]; and
5 (28) The chief executive officer of the Hawaii airports
6 corporation, all other executive officers the chief
7 executive officer may appoint pursuant to section
8 -3(d), and fifteen positions that the chief
9 executive officer is authorized to fill by appointing
10 specially qualified personnel pursuant to
11 section -3(d).

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

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

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

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

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1 auditor, the ombudsman, the board of directors of the Hawaii
2 airports corporation, and the director of the legislative
3 reference bureau. These individuals or boards may make
4 adjustments for their respective excluded employees."

5 SECTION 9. Section 103D-102, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

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

9 (1) Any regional system board of the Hawaii health systems
10 corporation; [~~or~~]

11 (2) The Kaho'olawe island reserve commission, except as
12 provided by section 6K-4.5 [~~or~~]; or

13 (3) The Hawaii airports corporation."

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

16 "§171-2 Definition of public lands. "Public lands" means
17 all lands or interest therein in the State classed as government
18 or crown lands previous to August 15, 1895, or acquired or
19 reserved by the government upon or subsequent to that date by
20 purchase, exchange, escheat, or the exercise of the right of
21 eminent domain, or in any other manner; including lands accreted
22 after May 20, 2003, and not otherwise awarded, submerged lands,

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1 and lands beneath tidal waters that are suitable for
2 reclamation, together with reclaimed lands that have been given
3 the status of public lands under this chapter, except:

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

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

8 (3) Lands being used for roads and streets;

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

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

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

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- 1 (7) Lands to which the Hawaii community development
2 authority in its corporate capacity holds title;
- 3 (8) Lands to which the department of agriculture holds
4 title by way of foreclosure, voluntary surrender, or
5 otherwise, to recover moneys loaned or to recover
6 debts otherwise owed the department under chapter 167;
- 7 (9) Lands that are set aside by the governor to the Aloha
8 Tower development corporation; lands leased to the
9 Aloha Tower development corporation by any department
10 or agency of the State; or lands to which the Aloha
11 Tower development corporation holds title in its
12 corporate capacity;
- 13 (10) Lands that are set aside by the governor to the
14 agribusiness development corporation; lands leased to
15 the agribusiness development corporation by any
16 department or agency of the State; or lands to which
17 the agribusiness development corporation in its
18 corporate capacity holds title; [and]
- 19 (11) Lands to which the Hawaii airports corporation holds
20 title; and
- 21 ~~(11)~~ (12) Lands to which the Hawaii technology development
22 corporation in its corporate capacity holds title;

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1 provided that, except as otherwise limited under federal law and
2 except for state land used as an airport as defined in section
3 262-1, public lands shall include the air rights over any
4 portion of state land upon which a county mass transit project
5 is developed after July 11, 2005."

6 SECTION 11. On and after the transfer completion date
7 established by the Hawaii airports corporation in section 14(b)
8 of this Act, and until the revisor of statutes makes the
9 amendments to chapters 261, 261D, and 262, Hawaii Revised
10 Statutes, described in this section, every reference to the
11 department of transportation in chapters 261, 261D, and 262,
12 Hawaii Revised Statutes, shall be a reference to the Hawaii
13 airports corporation, and every reference to the director of
14 transportation in chapters 261, 261D, and 262, Hawaii Revised
15 Statutes, shall be a reference to the board of directors or the
16 chief executive officer of the Hawaii airports corporation
17 depending upon which of the two is authorized to act under the
18 new chapter added to the Hawaii Revised Statutes in section 2 of
19 this Act. After the transfer completion date but no later than
20 when the subsequent supplements to the Hawaii Revised Statutes
21 are prepared, the revisor of statutes shall substitute the
22 phrase "board of directors" or "chief executive officer" for the

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1 terms "director" or "director of transportation", depending upon
2 which of the two is authorized to act under the new chapter
3 added to the Hawaii Revised Statutes in section 2 of this Act;
4 the term "Hawaii airports corporation" for the term "department
5 of transportation", the term "corporation" for the term
6 "department", and shall delete the definition of "director", in
7 chapters 261, 261D, and 262, Hawaii Revised Statutes.

8 SECTION 12. The Hawaii airports corporation shall succeed
9 to the jurisdiction, powers, and responsibilities of the
10 department of transportation over aeronautics and airports,
11 including all of the functions relating to airports and
12 aeronautics performed by the department and its airports
13 division, on the transfer completion date published by the
14 Hawaii airports corporation pursuant to section 14(b) of this
15 Act, which date shall be no later than December 31, 2022.

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

18 (1) That:

19 (A) Certain Certificate of the Director of
20 Transportation Providing for the Issuance of
21 State of Hawaii Airports System Revenue Bonds

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- 1 dated as of May 1, 1969, relating to certain
2 revenue bonds and other obligations;
- 3 (B) Certain Indenture of Trust dated as of December
4 1, 2013, between the department of transportation
5 and U.S. Bank National Association relating to
6 certain certificates of participation; and
- 7 (C) Certain Indenture of Trust dated as of August 1,
8 2014, between the department of transportation
9 and MUFG Union Bank, N.A., relating to certain
10 customer facility charge revenue bonds, each as
11 supplemented and amended to date; and
- 12 (2) The bonds, notes, and other obligations of the
13 department of transportation outstanding under, as
14 well as the covenants, restrictions, and other
15 requirements set forth in, those documents.

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

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1 SECTION 13. (a) Within ninety days of the effective date
2 of this Act, the governor shall designate a representative who
3 shall facilitate the corporation's orderly succession to the
4 jurisdiction, powers, functions, rights, benefits, obligations,
5 assets, liabilities, funds, accounts, contracts, and all other
6 things currently held, used, incurred, or performed by the
7 department of transportation, its director and staff, and its
8 airports division, in exercising the authority and fulfilling
9 the responsibilities conferred upon the department of
10 transportation and the director of transportation, by chapters
11 261, 261D, and 262, Hawaii Revised Statutes. With regard to
12 employees of the department of transportation, airports
13 division, those employees covered by chapter 76, Hawaii Revised
14 Statutes, shall maintain their status at the time of the
15 succession to the authority.

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

19 To facilitate the corporation's timely assumption of the
20 department of transportation's authority and responsibilities,
21 including all of the department's associated bonds, notes, and
22 obligations as described in paragraph (7) below, the department

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1 of transportation, the department of accounting and general
2 services, the department of human resources development, the
3 state procurement office, and any other state department or
4 agency shall, if requested by the corporation, enter into a
5 memorandum of understanding with the corporation to:

6 (1) Provide administrative support services for the
7 corporation pending the transfer of employees from the
8 department of transportation to the Hawaii airports
9 corporation pursuant to section 20 of this Act;

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

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

- 17 (A) A human resources office;
- 18 (B) The corporation's civil service and civil service
19 positions, and the classification system, merit
20 appeals board, recruitment system, performance
21 appraisal system, and the administrative rules,
22 policies, standards, and procedures, including

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1 internal complaint procedures, adopted to support
2 its civil service; and

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

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

15 (5) Assist the corporation in identifying the plans and
16 reports that departments and agencies administratively
17 attached to a department are required to prepare for
18 the governor, the legislature, or another state
19 department or agency with respect to aeronautics or
20 the State's airport system; determining whether those
21 plans and reports have been prepared and will be
22 transferred to the corporation on the transfer

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1 completion date; and preparing the same for the
2 corporation, if they do not exist;

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

14 (7) Assign and transfer:

15 (A) That certain Certificate of the Director of
16 Transportation Providing for the Issuance of
17 State of Hawaii Airports System Revenue Bonds
18 dated as of May 1, 1969, relating to certain
19 revenue bonds and other obligations;

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

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1 relating to certain certificates of
2 participation; and
3 (C) That certain Indenture of Trust dated as of
4 August 1, 2014, between the department of
5 transportation and MUFG Union Bank, N.A.,
6 relating to certain customer facility charge
7 revenue bonds, each as supplemented and amended
8 to date; the assumption of all indebtedness of
9 the department of transportation heretofore
10 issued and outstanding thereunder; and the
11 adoption of policies and procedures designed to
12 ensure continuing compliance with the terms
13 thereof for so long as they are applicable; and
14 (8) Reimburse each cooperating department or agency for
15 the cost of services provided under the memorandum of
16 understanding.
17 (b) As soon as feasible, the Hawaii airports corporation,
18 with the concurrence of the director of transportation and the
19 governor, shall establish the transfer completion date, which
20 shall be no later than December 31, 2022, and publish notice of
21 the transfer completion date by:

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

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

16 SECTION 14. It is the intent of this Act not to jeopardize
17 the receipt of any federal aid nor to impair any existing
18 federal income tax exemption to, security interest of, or
19 obligation of the State or any agency thereof to the holders of
20 any bonds or other obligations issued by the State or by any
21 department or agency of the State, and to the extent, and only
22 to the extent necessary to effectuate this intent, the governor

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

4 SECTION 15. This Act does not affect rights and duties
5 that matured, penalties that were incurred, and proceedings that
6 were begun before its effective date. The department of
7 transportation shall be responsible for any and all obligations,
8 including any accounts payable, accrued paid time off, debt,
9 capital leases and other obligation, incurred before the
10 transfer completion date by the department or its airports
11 division in connection with the department's exercise of the
12 authority and performance of the duties and responsibilities
13 conferred upon it and its director by chapters 261, 261D, and
14 262, Hawaii Revised Statutes, unless the Hawaii airports
15 corporation assumes any of those obligations prior to the
16 transfer completion date. All collective bargaining disputes or
17 claims against the department grounded in an act or omission, or
18 an event that occurred prior to the transfer completion date
19 shall remain the responsibility of the department of
20 transportation. All liabilities arising out of the Hawaii
21 airports corporation's exercise of the authority and performance
22 of the duties and responsibilities conferred upon it by chapters

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1 261, 261D, and 262, Hawaii Revised Statutes, after the effective
2 date of this Act, shall be the responsibility of the
3 corporation. The assumption by the airports corporation of the
4 bonds, notes, or other obligations of the department of
5 transportation relating to the State's airports system shall be
6 subject to the terms and provisions of any certificate,
7 indenture, or resolution securing those bonds, notes, or other
8 obligations.

9 SECTION 16. The State of Hawaii pledges to and agrees with
10 the holders of the bonds, notes, or other obligations of the
11 department of transportation being assumed by the airports
12 corporation on the transfer completion date and the holders of
13 the bonds, notes, or other obligations of the airports
14 corporation issued pursuant to chapters 37D or 39, Hawaii
15 Revised Statutes, that the State shall not limit or alter the
16 rights and powers vested in the Hawaii airports corporation so
17 as to impair the terms of any contract made or assumed by the
18 airports corporation with holders or in any way impair the
19 rights and remedies of holders until bonds, notes, or other
20 obligations, together with interest thereon, with interest on
21 any unpaid installments of interest, and all costs and expenses
22 in connection with any action or proceedings by or on behalf of

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1 holders, are fully met and discharged. In addition, the State
2 pledges to and agrees with the holders of the bonds, notes, or
3 other obligations of the department of transportation being
4 assumed by the airports corporation on the transfer completion
5 date and the holders of the bonds, notes, or other obligations
6 of the airports corporation issued pursuant to chapter 37D or
7 39, Hawaii Revised Statutes, that the State shall not limit or
8 alter the basis on which the revenues or user taxes securing any
9 such bonds, notes, or other obligations issued or assumed by the
10 airports corporations are to be received by the airports
11 corporation, or the rights of the airports corporation to the
12 use of the funds, so as to impair the terms of any contract
13 securing the same. The airports corporation is authorized to
14 include these pledges and agreements of the State in any
15 contract with the holders of bonds, notes, or other
16 obligations issued pursuant to chapter 37D or 39, Hawaii Revised
17 Statutes.

18 SECTION 17. The Hawaii airports corporation shall
19 recognize all bargaining units and collective bargaining
20 agreements existing at the time of transfer to the
21 corporation. All employees who occupy civil service positions
22 and whose functions are transferred to the Hawaii airports

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1 corporation by this Act shall retain their civil service status,
2 whether permanent or temporary. The employees shall be
3 transferred to the corporation without loss of salary, seniority
4 (except as prescribed by applicable collective bargaining
5 agreements), retention points, prior service credits, any
6 vacation and sick leave credits previously earned, and other
7 rights, benefits, and privileges, in accordance with state
8 personnel laws and this Act; provided that the employees meet
9 applicable requirements for the class or position to which
10 transferred or appointed, as applicable.

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

14 Any employee who, prior to this Act, is exempt from civil
15 service and is transferred to the corporation as a consequence
16 of this Act may retain the employee's exempt status, but shall
17 not be appointed to a civil service position as a consequence of
18 this Act. An exempt employee who is transferred by this Act
19 shall not suffer any loss of prior service credit, vacation or
20 sick leave credits previously earned, or other employee benefits
21 or privileges as a consequence of this Act. The chief executive
22 officer of the Hawaii airports corporation may prescribe the

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1 duties and qualifications of these employees and fix their
2 salaries without regard to chapter 76, Hawaii Revised Statutes.

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

6 SECTION 18. On or no more than ninety days after the
7 transfer completion date, all appropriations, records,
8 equipment, machines, files, supplies, contracts, books, papers,
9 documents, maps, and other personal property heretofore made,
10 used, acquired, or held by the department of transportation
11 relating to the functions transferred to the Hawaii airports
12 corporation shall be transferred with the functions to which
13 they relate.

14 SECTION 19. All rules, policies, procedures, guidelines,
15 and other material adopted or developed by the department of
16 transportation to implement provisions of the Hawaii Revised
17 Statutes that are reenacted or made applicable to the Hawaii
18 airports corporation by this Act shall remain in full force and
19 effect on and after the transfer completion date established
20 pursuant to section 14(b) of this Act, until amended or repealed
21 by the Hawaii airports corporation pursuant to chapter 91,
22 Hawaii Revised Statutes. In the interim, every reference to the

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1 department of transportation or director of transportation in
2 those rules, policies, procedures, guidelines, and other
3 material is amended to refer to the Hawaii airports corporation
4 or chief executive officer of the corporation, as appropriate.

5 SECTION 20. All deeds, executive orders, leases,
6 contracts, loans, agreements, permits, or other documents
7 executed or entered into by or on behalf of the department of
8 transportation, pursuant to the provisions of the Hawaii Revised
9 Statutes, that are reenacted or made applicable to the Hawaii
10 airports corporation by this Act shall remain in full force and
11 effect. On the transfer completion date established pursuant to
12 section 14(b) of this Act, every reference to the department of
13 transportation in those deeds, executive orders, leases,
14 contracts, loans, agreements, permits or other documents shall
15 be construed as a reference to the Hawaii airports corporation
16 or the board of directors of the corporation.

17 SECTION 21. There is appropriated out of the airport
18 revenue fund the sum of \$3,000,000 or so much thereof as may be
19 necessary for fiscal year 2020-2021, to effect the transfer of
20 functions from the department of transportation to the Hawaii
21 airports corporation required by this Act.

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

3 SECTION 22. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 23. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 24. This Act shall take effect on July 1, 2019;
12 provided that no amendment to section 261-7, Hawaii Revised
13 Statutes (Supp. 2017), shall be made in this Act or any other
14 act, until the currently outstanding obligations described in
15 paragraphs (1), (2), and (3) below are satisfaction and
16 discharge of:

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

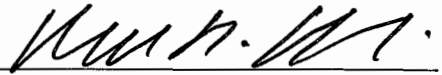
S.B. NO. 1281

- 1 (2) That certain Indenture of Trust dated as of
2 December 1, 2013, between the department of
3 transportation and U.S. Bank National Association; and
4 (3) All obligations issued and outstanding under the
5 Certificate and Indenture.

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INTRODUCED BY: 

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BY REQUEST

S.B. NO. 1281

Report Title:

Department of Transportation; Airport; Airports Corporation.

Description:

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.

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

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO AIRPORTS.

PURPOSE: Establishes a 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, budget, and maintenance of the State's airports. Sets out the appointment of members to the board of directors and the powers and duties of the Hawaii airports corporation. Transfers the aeronautics and the budget and finance functions of the Airports Division of the Department of Transportation to the Hawaii airports corporation.

MEANS: Add a new chapter entitled Hawaii Airports Corporation.

JUSTIFICATION: An independent airport corporation with a dedicated decision-making Board meeting throughout the year would enable the airport enterprise to more efficiently: (1) address aesthetic, critical infrastructure and capital improvement program issues, (2) unlock economic opportunities for the State, including increased air service, added jobs, and improve the State's image, and (3) streamline procedures for budgeting, procurement, and human resources processes.

Impact on the public:

Operating budgets that are defined by airport needs would improve terminal facilities and the quality of services and amenities offered to visitors, consistent with current airport industry standards.

Impact on the department and other agencies:

Distributed responsibility and involvement by multiple agencies, who sometimes have conflicting goals and priorities, results in inefficiency, delayed decision-making, and reduced effectiveness. The Department of Transportation believes that coordinated planning and development of the State's air transportation system and infrastructure would be achieved more effectively by establishing a separate state entity that has sole jurisdiction and responsibility for aeronautics and the State's airports.

GENERAL FUND: None.

OTHER FUNDS: \$3,000,000

PPBS PROGRAM
DESIGNATION: TRN-195

OTHER AFFECTED
AGENCIES: Hawaii Tourism Authority, Department of Budget and Finance, Department of Human Resources Development, Department of Land and Natural Resources, Department of Health, Office of Hawaiian Affairs Department of Public Safety, Department of Agriculture, State Procurement Office.

EFFECTIVE DATE: July 1, 2019.