

JAN 24 2019

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# A BILL FOR AN ACT

RELATING TO THE HAWAII COMMERCIAL HARBORS AUTHORITY.

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

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



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

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

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





HAWAII COMMERCIAL HARBORS AUTHORITY

PART I. GENERAL PROVISIONS

§ -1 Definitions. As used in this chapter:

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

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

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

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

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

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

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



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

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

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



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

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

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



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

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

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

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

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

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



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





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



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

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

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

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

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



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



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



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

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

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

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

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



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

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

15 (17) May invest and secure its moneys;

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

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



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

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

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

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



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

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

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





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

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



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

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

7 **PART II. BUDGET AND FINANCE**

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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

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

14       "§26-19 **Department of transportation.** The department of  
15 transportation shall be headed by a single executive to be known  
16 as the director of transportation. The department shall  
17 establish, maintain, and operate transportation facilities of  
18 the State, including highways, airports, harbors [7] other than  
19 commercial harbors and commercial maritime activities, and such  
20 other transportation facilities and activities as may be  
21 authorized by law.



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

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

13           The functions and authority heretofore exercised by the  
14 department of public works with respect to highways are  
15 transferred to the department of transportation established by  
16 this chapter.

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



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

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

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

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

14 (2) By any court or judicial or legislative office of the  
15 State; provided that if the attorney general is  
16 requested to provide representation to a court or  
17 judicial office by the chief justice or the chief  
18 justice's designee, or to a legislative office by the  
19 speaker of the house of representatives and the  
20 president of the senate jointly, and the attorney  
21 general declines to provide such representation on the



- 1 grounds of conflict of interest, the attorney general  
2 shall retain an attorney for the court, judicial, or  
3 legislative office, subject to approval by the court,  
4 judicial, or legislative office;
- 5 (3) By the legislative reference bureau;
- 6 (4) By any compilation commission that may be constituted  
7 from time to time;
- 8 (5) By the real estate commission for any action involving  
9 the real estate recovery fund;
- 10 (6) By the contractors license board for any action  
11 involving the contractors recovery fund;
- 12 (7) By the office of Hawaiian affairs;
- 13 (8) By the department of commerce and consumer affairs for  
14 the enforcement of violations of chapters 480 and  
15 485A;
- 16 (9) As grand jury counsel;
- 17 (10) By the Hawaii health systems corporation, or its  
18 regional system boards, or any of their facilities;
- 19 (11) By the auditor;
- 20 (12) By the office of ombudsman;
- 21 (13) By the insurance division;





- 1 (14) By the University of Hawaii;
- 2 (15) By the Kahoolawe island reserve commission;
- 3 (16) By the division of consumer advocacy;
- 4 (17) By the office of elections;
- 5 (18) By the campaign spending commission;
- 6 (19) By the Hawaii tourism authority, as provided in
- 7 section 201B-2.5;
- 8 (20) By the division of financial institutions;
- 9 (21) By the office of information practices; [~~ex~~]
- 10 (22) By the Hawaii commercial harbors authority; or
- 11 [~~(22)~~] (23) By a department, if the attorney general, for
- 12 reasons deemed by the attorney general to be good and
- 13 sufficient, declines to employ or retain an attorney
- 14 for a department; provided that the governor waives
- 15 the provision of this section."
- 16 2. By amending subsection (c) to read:
- 17 "(c) Every attorney employed by any department on a full-
- 18 time basis, except an attorney employed by the public utilities
- 19 commission, the labor and industrial relations appeals board,
- 20 the Hawaii labor relations board, the office of Hawaiian
- 21 affairs, the Hawaii health systems corporation or its regional



1 system boards, the department of commerce and consumer affairs  
2 in prosecution of consumer complaints, insurance division, the  
3 division of consumer advocacy, the University of Hawaii, the  
4 Hawaii tourism authority as provided in section 201B-2.5, the  
5 office of information practices, the Hawaii commercial harbors  
6 authority, or as grand jury counsel, shall be a deputy attorney  
7 general."

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

10 "(b) Any provision in this section to the contrary  
11 notwithstanding, the Hawaii commercial harbors authority, the  
12 University of Hawaii (as to casualty insurance risks only), the  
13 Research Corporation of the University of Hawaii (as to casualty  
14 insurance risks only), the public health facilities of the  
15 department of health (with respect to medical malpractice risks  
16 only), and the Hawaii health systems corporation and its  
17 regional system boards shall be exempt from the requirements of  
18 this chapter."

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



1           "Jurisdiction" means the State, the city and county of  
2 Honolulu, the county of Hawaii, the county of Maui, the county  
3 of Kauai, the judiciary, the department of education, the  
4 University of Hawaii, the Hawaii commercial harbors authority,  
5 and the Hawaii health systems corporation."

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

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

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

18           (2) Positions filled by persons employed by contract where  
19 the director of human resources development has  
20 certified that the service is special or unique or is  
21 essential to the public interest and that, because of



- 1           circumstances surrounding its fulfillment, personnel  
2           to perform the service cannot be obtained through  
3           normal civil service recruitment procedures. Any such  
4           contract may be for any period not exceeding one year;
- 5       (3)   Positions that must be filled without delay to comply  
6           with a court order or decree if the director  
7           determines that recruitment through normal recruitment  
8           civil service procedures would result in delay or  
9           noncompliance, such as the Felix-Cayetano consent  
10          decree;
- 11       (4)   Positions filled by the legislature or by either house  
12          or any committee thereof;
- 13       (5)   Employees in the office of the governor and office of  
14          the lieutenant governor, and household employees at  
15          Washington Place;
- 16       (6)   Positions filled by popular vote;
- 17       (7)   Department heads, officers, and members of any board,  
18          commission, or other state agency whose appointments  
19          are made by the governor or are required by law to be  
20          confirmed by the senate;



- 1           (8) Judges, referees, receivers, masters, jurors, notaries  
2           public, land court examiners, court commissioners, and  
3           attorneys appointed by a state court for a special  
4           temporary service;
- 5           (9) One bailiff for the chief justice of the supreme court  
6           who shall have the powers and duties of a court  
7           officer and bailiff under section 606-14; one  
8           secretary or clerk for each justice of the supreme  
9           court, each judge of the intermediate appellate court,  
10          and each judge of the circuit court; one secretary for  
11          the judicial council; one deputy administrative  
12          director of the courts; three law clerks for the chief  
13          justice of the supreme court, two law clerks for each  
14          associate justice of the supreme court and each judge  
15          of the intermediate appellate court, one law clerk for  
16          each judge of the circuit court, two additional law  
17          clerks for the civil administrative judge of the  
18          circuit court of the first circuit, two additional law  
19          clerks for the criminal administrative judge of the  
20          circuit court of the first circuit, one additional law  
21          clerk for the senior judge of the family court of the



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

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

19 (11) (A) Teachers, principals, vice-principals, complex  
20 area superintendents, deputy and assistant  
21 superintendents, other certificated personnel,



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



- 1           (12) Employees engaged in special, research, or  
2           demonstration projects approved by the governor;
- 3           (13) (A) Positions filled by inmates, patients of state  
4           institutions, persons with severe physical or  
5           mental disabilities participating in the work  
6           experience training programs;
- 7           (B) Positions filled with students in accordance with  
8           guidelines for established state employment  
9           programs; and
- 10          (C) Positions that provide work experience training  
11          or temporary public service employment that are  
12          filled by persons entering the workforce or  
13          persons transitioning into other careers under  
14          programs such as the federal Workforce Investment  
15          Act of 1998, as amended, or the Senior Community  
16          Service Employment Program of the Employment and  
17          Training Administration of the United States  
18          Department of Labor, or under other similar state  
19          programs;
- 20          (14) A custodian or guide at Iolani Palace, the Royal  
21          Mausoleum, and Hulihee Palace;





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



1 approval of the governor; an administrative assistant  
2 to the state librarian; and an administrative  
3 assistant to the superintendent of education;

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

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

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

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

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

19 (20) Employees in the department of education engaged in  
20 the supervision of students during meal periods in the  
21 distribution, collection, and counting of meal



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



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

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

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

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



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

9            SECTION 9. Section 103D-203, Hawaii Revised Statutes, is  
10 amended as follows:

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

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

14            (1) The judiciary--the administrative director of the  
15 courts;

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

17            (3) The house of representatives--the speaker of the house  
18 of representatives;

19            (4) The office of Hawaiian affairs--the chairperson of the  
20 board;



- 1           (5) The University of Hawaii--the president of the  
2           University of Hawaii;
- 3           (6) The department of education, excluding the Hawaii  
4           public library system--the superintendent of  
5           education;
- 6           (7) The Hawaii health systems corporation--the chief  
7           executive officer of the Hawaii health systems  
8           corporation; [~~and~~]
- 9           (8) The Hawaii commercial harbors authority--the chief  
10           executive officer of the Hawaii commercial harbors  
11           authority; and
- 12        ~~(8)~~ (9) The remaining departments of the executive branch  
13           of the State and all governmental bodies  
14           administratively attached to them--the administrator  
15           of the state procurement office of the department of  
16           accounting and general services."
- 17           2. By amending subsection (c) to read:
- 18           "(c) For purposes of applying this chapter to the  
19           judiciary, houses of the legislature, office of Hawaiian  
20           affairs, University of Hawaii, department of education, Hawaii  
21           commercial harbors authority, remaining departments of the



1 executive branch and all governmental bodies administratively  
2 attached to them, and the several counties, unless otherwise  
3 expressly provided, "State" shall mean "judiciary", "state  
4 senate", "state house of representatives", "office of Hawaiian  
5 affairs", "University of Hawaii", "department of education",  
6 "Hawaii commercial harbors authority", "executive branch",  
7 "county", "board of water supply" or "department of water  
8 supply", and "semi-autonomous public transit agency",  
9 respectively."

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

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



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- 1           (1) Lands designated in section 203 of the Hawaiian Homes  
2           Commission Act, 1920, as amended;
- 3           (2) Lands set aside pursuant to law for the use of the  
4           United States;
- 5           (3) Lands being used for roads and streets;
- 6           (4) Lands to which the United States relinquished the  
7           absolute fee and ownership under section 91 of the  
8           Hawaiian Organic Act prior to the admission of Hawaii  
9           as a state of the United States unless subsequently  
10          placed under the control of the board of land and  
11          natural resources and given the status of public lands  
12          in accordance with the state constitution, the  
13          Hawaiian Homes Commission Act, 1920, as amended, or  
14          other laws;
- 15          (5) Lands to which the University of Hawaii holds title;
- 16          (6) Lands to which the Hawaii housing finance and  
17          development corporation in its corporate capacity  
18          holds title;
- 19          (7) Lands to which the Hawaii community development  
20          authority in its corporate capacity holds title;





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



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

13        SECTION 11. Section 171-64.7, Hawaii Revised Statutes, is  
14 amended by amending subsection (a) to read as follows:

15        "(a) This section applies to all lands or interest therein  
16 owned or under the control of state departments and agencies  
17 classed as government or crown lands previous to August 15,  
18 1895, or acquired or reserved by the government upon or  
19 subsequent to that date by purchase, exchange, escheat, or the  
20 exercise of the right of eminent domain, or any other manner,  
21 including accreted lands not otherwise awarded, submerged lands,



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, including:

4 (1) Land set aside pursuant to law for the use of the  
5 United States;

6 (2) Land to which the United States relinquished the  
7 absolute fee and ownership under section 91 of the  
8 Organic Act prior to the admission of Hawaii as a  
9 state of the United States;

10 (3) Land to which the University of Hawaii holds title;

11 (4) Land to which the Hawaii housing finance and  
12 development corporation in its corporate capacity  
13 holds title;

14 (5) Land to which the department of agriculture holds  
15 title by way of foreclosure, voluntary surrender, or  
16 otherwise, to recover moneys loaned or to recover  
17 debts otherwise owed the department under chapter 167;

18 (6) Land that is set aside by the governor to the Aloha  
19 Tower development corporation; or land to which the  
20 Aloha Tower development corporation holds title in its  
21 corporate capacity;



- 1           (7) Land that is set aside by the governor to the  
2                    agribusiness development corporation; or land to which  
3                    the agribusiness development corporation in its  
4                    corporate capacity holds title;
- 5           (8) Land to which the Hawaii technology development  
6                    corporation in its corporate capacity holds title;  
7                    [and]
- 8           (9) Land to which the department of education holds  
9                    title[-]; and
- 10          (10) Land to which the Hawaii commercial harbors authority  
11                    holds title."

12           SECTION 12. Section 266-17, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14           "(a) The [~~department of transportation~~] Hawaii commercial  
15 harbors authority shall adjust, fix, and enforce the rates  
16 assessable and chargeable by it in respect to dockage, wharfage,  
17 demurrage, and other rates and fees pertaining to harbors,  
18 wharves, and properties managed and operated by it so as to  
19 produce from the rates and fees, in respect to all harbors,  
20 wharves, and other properties, except those that are principally



1 used for recreation or the landing of fish, revenues sufficient  
2 to:

- 3 (1) Pay when due the principal of and interest on all  
4 bonds and other obligations for the payment of which  
5 the revenue is or has been pledged, charged, or  
6 otherwise encumbered, or which are otherwise payable  
7 from the revenue or from a special fund maintained or  
8 to be maintained from the revenue, including reserves  
9 therefor, and to maintain the special fund in an  
10 amount at least sufficient to pay when due all bonds  
11 or other revenue obligations and interest thereon,  
12 which are payable from the special fund, including  
13 reserves therefor;
- 14 (2) Provide for all expenses of operation and maintenance  
15 of the properties, including reserves therefor, and  
16 the expenses of the department in connection with  
17 operation and maintenance; and
- 18 (3) Reimburse the general fund of the State for all bond  
19 requirements for general obligation bonds which are or  
20 have been issued for harbor or wharf improvements, or  
21 to refund any of the improvement bonds, excluding



1           bonds, the proceeds of which were or are to be  
2           expended for improvements which are or will be neither  
3           revenue producing nor connected in their use directly  
4           with revenue producing properties."

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



1 "chief executive officer" for the terms "director" or "director  
2 of transportation", the term "Hawaii commercial harbors  
3 authority" for the term "department of transportation", and the  
4 term "authority" for the term "department."

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

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



1           SECTION 15. (a) Not prior to January 1, 2020, but no  
2 later than September 30, 2020, the governor shall designate a  
3 representative who shall facilitate the Hawaii commercial  
4 harbors authority's orderly succession to the jurisdiction,  
5 powers, functions, rights, benefits, obligations, assets,  
6 liabilities, funds, accounts, contracts, and all other things  
7 currently held, used, incurred, or performed by the department  
8 of transportation, its director and staff, and its harbors  
9 division, in administering and exercising the authority and  
10 fulfilling the responsibilities authorized or conferred upon the  
11 department of transportation and the director of transportation  
12 by chapters 102, 266, and 268, Hawaii Revised Statutes.

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

16           To facilitate the Hawaii commercial harbors authority's  
17 timely assumption of the department of transportation's  
18 authority and responsibilities, including all of the  
19 department's associated bonds, notes, and obligations as  
20 described in paragraph (7), the department of transportation,  
21 department of accounting and general services, department of





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

5 (1) Provide administrative support services for the  
6 authority pending the transfer of employees from the  
7 department of transportation to the Hawaii commercial  
8 harbors authority pursuant to section 18 of this Act;

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

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

16 (A) A human resources office;

17 (B) The authority's civil service and civil service  
18 positions, and the classification system, merit  
19 appeals board, recruitment system, performance  
20 appraisal system, and the administrative rules,  
21 policies, standards, and procedures, including



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

3 (C) The authority'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 authority in establishing its accounting,  
8 budgeting, fund management, and communication and  
9 electronic information systems, and creating  
10 appropriate interfaces between the authority'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 authority 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 commercial  
20 maritime activities or the State's commercial harbor  
21 system; determining whether those plans and reports



1           have been prepared and will be transferred to the  
2           authority on the transfer completion date; and  
3           preparing the same for the authority, if they do not  
4           exist;

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

17          (7)   Reimburse each cooperating department or agency for  
18          the cost of services provided under the memorandum of  
19          understanding.

20          (b)   As soon as feasible, the Hawaii commercial harbors  
21          authority, with the concurrence of the director of



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

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

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

9 (3) Providing a copy of the notice to the department of  
10 transportation, the Secretaries of the United States  
11 Department of Transportation and Department of  
12 Defense, the Commandant of the United States Coast  
13 Guard, and the head of every other state department;  
14 and

15 (4) Posting the notice prominently at every commercial  
16 harbor and commercial maritime facility in the State.

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

19 SECTION 16. It is the intent of this Act not to jeopardize  
20 the receipt of any federal aid nor to impair any existing  
21 federal income tax exemption to, security interest of, or



1 obligation of the State or any agency thereof to the holders of  
2 any bonds or other obligations issued by the State or by any  
3 department or agency of the State, and to the extent, and only  
4 to the extent necessary to effectuate this intent, the governor  
5 may modify the strict provisions of this Act, but shall promptly  
6 report any modification with reasons therefor to the legislature  
7 at its next session thereafter for review by the legislature.

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



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

20 SECTION 18. The State of Hawaii pledges to and agrees with  
21 the holders of the bonds, notes, or other obligations of the



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



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

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





1 privileges, in accordance with state personnel laws and this  
2 Act; provided that the employees meet applicable requirements  
3 for the class or position to which transferred or appointed, as  
4 applicable.

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

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

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



1 SECTION 20. No more than ninety days after the transfer  
2 completion date established pursuant to section 14(b) of this  
3 Act, all appropriations, records, equipment, machines, files,  
4 supplies, contracts, books, papers, documents, maps, and other  
5 personal property heretofore made, used, acquired, or held by  
6 the department of transportation relating to the functions  
7 transferred to the Hawaii commercial harbors authority shall be  
8 transferred with the functions to which they relate.

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



1 harbors authority or chief executive officer of the authority,  
2 as appropriate.

3 SECTION 22. All deeds, executive orders, leases,  
4 contracts, loans, agreements, permits, or other documents  
5 executed or entered into by or on behalf of the department of  
6 transportation, pursuant to the provisions of the Hawaii Revised  
7 Statutes, that are reenacted or made applicable to the Hawaii  
8 commercial harbors authority by this Act shall remain in full  
9 force and effect. On the transfer completion date established  
10 pursuant to section 14(b) of this Act, every reference to the  
11 department of transportation in those deeds, executive orders,  
12 leases, contracts, loans, agreements, permits or other documents  
13 shall be construed as a reference to the Hawaii commercial  
14 harbors authority or the board of directors of the authority.

15 SECTION 23. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$ or so  
17 much thereof as may be necessary for fiscal year 2020-2021 for  
18 to effect the transfer of functions from the department of  
19 transportation to the Hawaii commercial harbors authority as  
20 required by this Act.





# S.B. NO. 1482

**Report Title:**

Hawaii Commercial Harbors Authority; Department of Transportation; Commercial Harbors; Commercial Maritime Facilities, Operations, and Activities; Appropriation

**Description:**

Establishes the Hawaii commercial harbors authority. Transfers jurisdiction and functions relating to commercial harbors and commercial maritime operations from the department of transportation to the Hawaii commercial harbors authority. Appropriates funds.

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

