

JAN 24 2019

A BILL FOR AN ACT

RELATING TO AN AIRPORTS CORPORATION.

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



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

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

- 8 (1) Maximizing the contribution of Hawaii's airports to
9 the State'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;



- 1 (7) Increasing responsiveness to consumer needs,
- 2 commercial opportunities, and economic demands; and
- 3 (8) Maximizing job creation within the State.

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

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

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

19 "CHAPTER

20 HAWAII AIRPORTS CORPORATION

21 PART I. GENERAL PROVISIONS



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

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

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

6 "Airport" shall have the same meaning as defined in section
7 261-1.

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

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

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

14 **§ -2 Airports corporation; establishment; board;**
15 **members; chief executive officer.** (a) There is established the
16 Hawaii airports corporation to:

- 17 (1) Develop and implement management structures, policies,
18 and procedures based on airport industry best
19 practices;
- 20 (2) Efficiently develop, manage, operate, and maintain the
21 State's airports and aeronautical facilities; and



1 (3) Administer the provisions of chapters 261, 261D, and
2 262 that are applicable to airports and aeronautical
3 facilities.

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

12 (b) The powers of the airports corporation shall be vested
13 in and exercised by a board of directors, which shall consist of
14 nine voting members, who shall be appointed by the governor
15 pursuant to section 26-34; provided that there shall be one
16 member who is a resident of each county and one member
17 representing aviation interests. Senate confirmation of members
18 shall not be required. All members shall be appointed for terms
19 of four years; provided that the governor shall stagger the
20 initial terms pursuant to section 26-34(a).



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

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

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

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



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

5 (h) The airports corporation shall be headed by a single
6 executive to be known as the chief executive officer of the
7 Hawaii airports corporation, who shall:

8 (1) Not be a member of the board;

9 (2) Be exempt from chapters 76 and 89; and

10 (3) Receive a salary fixed by the board.

11 (i) The chief executive officer:

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

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

20 (3) Shall be employed subject to a formal contract, the
21 terms of which shall be approved by the board;



- 1 provided that the terms shall include provisions for
2 the removal of the chief executive officer whether
3 with or without cause;
- 4 (4) May be removed from office only by a vote of not less
5 than five members of the board; provided that the
6 basis for removal shall be consistent with the terms
7 of the chief executive officer's employment contract;
- 8 (5) Shall have the powers as described in this chapter and
9 chapters 261, 261D, and 262, as may be delegated by
10 the board;
- 11 (6) Except when excused by the board, shall attend all
12 meetings of the board, keep a record of the
13 proceedings, and maintain and be the custodian of the
14 official seal of the corporation and all books,
15 records, documents, and papers filed with the
16 corporation;
- 17 (7) Shall direct and supervise the corporation's
18 administrative and operational affairs in accordance
19 with the directives of the board;
- 20 (8) Shall approve all accounts for salaries and allowable
21 expenses of the corporation;



1 (9) Shall do all things necessary, as directed by the
2 board, to carry out the powers and duties conferred
3 upon the corporation by this chapter and chapters 261,
4 261D, and 262.

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

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

18 § -3 Powers; generally. (a) The Hawaii airports
19 corporation, by and through its board of directors:

20 (1) Shall exercise power and control over all airports,
21 air navigation facilities, buildings, and other



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1 facilities that the corporation is responsible for
2 managing, operating, or controlling under the
3 provisions of this chapter and chapters 261, 261D, and
4 262;

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

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

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

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

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



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- 1 (A) A chief procurement officer position shall be
- 2 established to oversee a centralized set of
- 3 procurement professionals to conduct procurement;
- 4 (B) The board of directors shall maintain internal
- 5 policies and procedures for the timely and
- 6 efficient procurement of goods and services,
- 7 including planning, engineering, and construction
- 8 services, to include post-award contract
- 9 management and oversight procedures, that are
- 10 consistent with the goals of public
- 11 accountability and public procurement practices;
- 12 (C) Procurement policies shall be published and
- 13 available to the public;
- 14 (D) The corporation shall implement and maintain an
- 15 electronic procurement system to ensure
- 16 electronic posting, to include requisition-to-
- 17 check, contract management, and spend analysis
- 18 modules. All solicitations, including any bid
- 19 openings, and additional solicitation documents
- 20 shall be publicly available online;



- 1 (E) The corporation shall develop key performance
- 2 indicators covering the following four areas:
- 3 (i) Effective management and increased
- 4 efficiency of the procurement process;
- 5 (ii) Contract management and supplier
- 6 performance;
- 7 (iii) Transparency, openness, and accountability
- 8 of procurement processes; and
- 9 (iv) Professionalism of the procurement
- 10 workforce;
- 11 (F) The corporation shall develop a training and
- 12 procurement delegation system;
- 13 (G) Professional services contracts for licensees
- 14 under chapter 464 shall be procured in accordance
- 15 with section 103D-304; whereas all other services
- 16 may be procured using best value competitive
- 17 proposals and using, insofar as practical,
- 18 deliverables as a payment method and limiting use
- 19 of time and materials contracts;
- 20 (H) Cost plus percentage of cost type contracts shall
- 21 be disallowed;



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- 1 (I) Insofar as practical, and based on specifications
2 developed, adequate and reasonable competition of
3 no fewer than three proposals shall be solicited
4 for each project;
- 5 (J) Factors, including quality, warranty, delivery,
6 and full lifecycle costs to include handover,
7 surge, and disaster preparedness factors, and a
8 best-value award, to include a past performance
9 evaluation factor, shall be considered in
10 determining the offeror with the most
11 advantageous proposal;
- 12 (K) The procurement requirements shall not be
13 artificially divided or parceled so as to avoid
14 competitive bidding or competitive proposals; and
- 15 (L) The corporation shall implement a dispute
16 resolution process for procurement award and
17 post-award contract actions.
- 18 (7) Shall have an official seal and may alter the official
19 seal at its pleasure;
- 20 (8) May make, execute, or assume contracts, leases, and
21 all other instruments necessary or convenient for the



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1 exercise of its powers and functions under this
2 chapter and chapters 261, 261D, and 262;

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

5 (10) Shall adopt rules pursuant to chapter 91 as necessary
6 to implement the provisions of this chapter and
7 chapters 261, 261D, and 262;

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

10 (12) May own, purchase, lease, exchange, or otherwise
11 acquire property, whether real, personal, or mixed,
12 tangible or intangible, and any interest therein, in
13 the name of the corporation, and may assign, exchange,
14 transfer, convey, lease, sublease, or encumber the
15 same or any project, improvement, or facility related
16 thereto; provided that the lands to which the
17 corporation holds title shall not be subject to
18 chapter 171; provided further that any sale, gift, or
19 exchange of real property shall be subject to the
20 terms, conditions, and restrictions applicable to the
21 sale, gift, or exchange of public lands in section



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

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

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

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

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

17 (A) That:

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



1 Bonds dated as of May 1, 1969, relating to
2 certain revenue bonds and other obligations;
3 (ii) Certain Indenture of Trust dated as of
4 December 1, 2013, between the department of
5 transportation and U.S. Bank National
6 Association relating to certain certificates
7 of participation; and
8 (iii) Certain Indenture of Trust dated as of
9 August 1, 2014, between the department of
10 transportation and MUFG Union Bank, N.A.,
11 relating to certain customer facility charge
12 revenue bonds, each as supplemented and
13 amended to date; and
14 (B) The bonds, notes, and other obligations of the
15 department of transportation outstanding under,
16 as well as the covenants, restrictions, and other
17 requirements set forth in, those documents;
18 (17) Shall adopt policies and procedures designed to ensure
19 continuing compliance with the terms of the documents
20 in paragraph (16) for so long as they are applicable;



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;



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- 1 (20) May invest and secure its moneys;
- 2 (21) May exercise the power of eminent domain pursuant to
3 chapter 101 and in accordance with sections 261-31 to
4 261-36, to acquire real property for the corporation
5 with which to carry out the provisions of this chapter
6 and chapters 261, 261D, or 262;
- 7 (22) Shall establish and maintain an appropriate system of
8 accounts for the corporation;
- 9 (23) Shall cooperate with the department of land and
10 natural resources to provide an annual accounting of
11 all receipts from lands described in section 5(f) of
12 the Admission Act, Public Law 86-3, for the prior
13 fiscal year, pursuant to section 5 of Act 178, Session
14 Laws of Hawaii 2006; and
- 15 (24) May do any and all things necessary to exercise the
16 powers and perform the duties conferred upon the
17 corporation by this chapter and chapters 261, 261D,
18 and 262.
- 19 (b) The corporation shall not be subject to chapters 36,
20 37, 37D, 38, and 40, except for section 36-28.5 and as otherwise
21 provided in this chapter and chapter 261.



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

14 The board of directors, upon the advice of its attorney,
15 may arbitrate, compromise, or settle any claim, action, or suit
16 brought against the airports corporation pursuant to this
17 section. Any claim compromised or settled under this subsection
18 shall be payable solely from the moneys and property of the
19 airports corporation and shall not constitute a general
20 obligation of the State or be secured directly or indirectly by
21 the full faith and credit of the State or the general credit of



1 the State or by any revenue or taxes of the State. Nothing in
2 this subsection shall preclude the board of directors from
3 requesting legislative appropriations to fund the settlement of
4 any claim or judgment against the airports corporation or its
5 officers, employees, or agents.

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

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



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

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



1 PART II. BUDGET AND FINANCE

2 § -11 Exemptions. The airport revenue fund, passenger
3 facility charge special fund, and rental motor vehicle customer
4 facility charge special fund shall be exempt from chapters 36,
5 37, 37D, and 40.

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

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

20 (c) Along with its budget proposals, the corporation shall
21 provide an annual report of the income to and the expenditures



1 from the airport revenue fund, the passenger facility charge
2 special fund, the rental motor vehicle customer facility charge
3 special fund, and any other special or revolving fund
4 administered by the corporation. The corporation 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 proposals, separately for
12 both the corporation's operating and capital budget proposals,
13 one lump sum for each means or source of funds in the amounts
14 specified in the budget proposals transmitted to the governor by
15 the department of transportation pursuant to subsection (b).

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

19 § -13 **Budget oversight.** The corporation'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 § -14 **Accounts; depositories.** (a) Appropriations for
4 the corporation shall not be subject to any allotment system or
5 requirements. The director of finance shall notify the
6 corporation and the comptroller that all of the appropriations
7 for the corporation for the fiscal year have been allotted and
8 are available for expenditure as soon as possible, and in no
9 event more than three business days, after the general or
10 supplemental appropriations act is effective.

11 (b) Moneys in the airport revenue fund, passenger facility
12 charge special fund, and rental motor vehicle customer facility
13 charge special fund may be deposited in depositories other than
14 the state treasury; provided that the airports corporation
15 shall:

- 16 (1) Consult with the director of finance before selecting
17 a depository for the corporation's funds; and
18 (2) Submit copies of annual statements from each of the
19 depositories in which the moneys from the funds are
20 deposited to the director of finance.



1 § -15 **Expenditures in excess of appropriations.** If in
2 any fiscal year the amount of revenues deposited into the
3 airport revenue fund exceeds the amount appropriated from that
4 fund for that year, the board of directors of the corporation
5 may approve expenditures in excess of the amount appropriated,
6 up to the amount by which revenues for that fund exceed the
7 appropriations from that fund for a fiscal year.

8 § -16 **Issuance of bonds.** On an annual basis, and upon
9 request of the corporation, the legislature shall authorize one
10 lump sum for each means or source of funds for each of the
11 following types of bonds to be issued by the corporation:
12 revenue bonds, refunding revenue bonds, and special facility
13 revenue bonds."

14 § -17 **Audits.** The auditor shall conduct management and
15 financial audits of the corporation for fiscal year 2023 and
16 every second year thereafter."

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

19 "§26-19 **Department of transportation.** The department of
20 transportation shall be headed by a single executive to be known
21 as the director of transportation. The department shall



1 establish, maintain, and operate transportation facilities of
2 the State, including highways, [~~airports,~~] harbors, and such
3 other transportation facilities and activities, other than
4 airports and aeronautics, as may be authorized by law.

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

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

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



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

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

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

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

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

18 (2) By any court or judicial or legislative office of the
19 State; provided that if the attorney general is
20 requested to provide representation to a court or
21 judicial office by the chief justice or the chief



1 justice's designee, or to a legislative office by the
2 speaker of the house of representatives and the
3 president of the senate jointly, and the attorney
4 general declines to provide such representation on the
5 grounds of conflict of interest, the attorney general
6 shall retain an attorney for the court, judicial, or
7 legislative office, subject to approval by the court,
8 judicial, or legislative office;

9 (3) By the legislative reference bureau;

10 (4) By any compilation commission that may be constituted
11 from time to time;

12 (5) By the real estate commission for any action involving
13 the real estate recovery fund;

14 (6) By the contractors license board for any action
15 involving the contractors recovery fund;

16 (7) By the office of Hawaiian affairs;

17 (8) By the department of commerce and consumer affairs for
18 the enforcement of violations of chapters 480 and
19 485A;

20 (9) As grand jury counsel;



- 1 (10) By the Hawaii health systems corporation, or its
2 regional system boards, or any of their facilities;
- 3 (11) By the auditor;
- 4 (12) By the office of ombudsman;
- 5 (13) By the insurance division;
- 6 (14) By the University of Hawaii;
- 7 (15) By the Kahoolawe island reserve commission;
- 8 (16) By the division of consumer advocacy;
- 9 (17) By the office of elections;
- 10 (18) By the campaign spending commission;
- 11 (19) By the Hawaii tourism authority, as provided in
12 section 201B-2.5;
- 13 (20) By the division of financial institutions;
- 14 (21) By the office of information practices; [~~or~~]
- 15 (22) By the Hawaii airports corporation; or
- 16 [~~(22)~~] (23) By a department, if the attorney general, for
17 reasons deemed by the attorney general to be good and
18 sufficient, declines to employ or retain an attorney
19 for a department; provided that the governor waives
20 the provision of this section."
- 21 2. By amending subsection (c) to read:



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

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

15 "(b) Any provision in this section to the contrary
16 notwithstanding, the Hawaii airports corporation, the University
17 of Hawaii (as to casualty insurance risks only), the Research
18 Corporation of the University of Hawaii (as to casualty
19 insurance risks only), the public health facilities of the
20 department of health (with respect to medical malpractice risks
21 only), and the Hawaii health systems corporation and its



1 regional system boards shall be exempt from the requirements of
2 this chapter."

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

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

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

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

- 17 (1) Commissioned and enlisted personnel of the Hawaii
18 National Guard as such, and positions in the Hawaii
19 National Guard that are required by state or federal
20 laws or regulations or orders of the National Guard to



- 1 be filled from those commissioned or enlisted
2 personnel;
- 3 (2) Positions filled by persons employed by contract where
4 the director of human resources development has
5 certified that the service is special or unique or is
6 essential to the public interest and that, because of
7 circumstances surrounding its fulfillment, personnel
8 to perform the service cannot be obtained through
9 normal civil service recruitment procedures. Any such
10 contract may be for any period not exceeding one year;
- 11 (3) Positions that must be filled without delay to comply
12 with a court order or decree if the director
13 determines that recruitment through normal recruitment
14 civil service procedures would result in delay or
15 noncompliance, such as the Felix-Cayetano consent
16 decree;
- 17 (4) Positions filled by the legislature or by either house
18 or any committee thereof;
- 19 (5) Employees in the office of the governor and office of
20 the lieutenant governor, and household employees at
21 Washington Place;



- 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



1 clerks for the civil administrative judge of the
2 circuit court of the first circuit, two additional law
3 clerks for the criminal administrative judge of the
4 circuit court of the first circuit, one additional law
5 clerk for the senior judge of the family court of the
6 first circuit, two additional law clerks for the civil
7 motions judge of the circuit court of the first
8 circuit, two additional law clerks for the criminal
9 motions judge of the circuit court of the first
10 circuit, and two law clerks for the administrative
11 judge of the district court of the first circuit; and
12 one private secretary for the administrative director
13 of the courts, the deputy administrative director of
14 the courts, each department head, each deputy or first
15 assistant, and each additional deputy, or assistant
16 deputy, or assistant defined in paragraph (16);
17 (10) First deputy and deputy attorneys general, the
18 administrative services manager of the department of
19 the attorney general, one secretary for the
20 administrative services manager, an administrator and
21 any support staff for the criminal and juvenile



1 justice resources coordination functions, and law
2 clerks;

3 (11) (A) Teachers, principals, vice-principals, complex
4 area superintendents, deputy and assistant
5 superintendents, other certificated personnel,
6 not more than twenty noncertificated
7 administrative, professional, and technical
8 personnel not engaged in instructional work;

9 (B) Effective July 1, 2003, teaching assistants,
10 educational assistants, bilingual/bicultural
11 school-home assistants, school psychologists,
12 psychological examiners, speech pathologists,
13 athletic health care trainers, alternative school
14 work study assistants, alternative school
15 educational/supportive services specialists,
16 alternative school project coordinators, and
17 communications aides in the department of
18 education;

19 (C) The special assistant to the state librarian and
20 one secretary for the special assistant to the
21 state librarian; and



- 1 (D) Members of the faculty of the University of
- 2 Hawaii, including research workers, extension
- 3 agents, personnel engaged in instructional work,
- 4 and administrative, professional, and technical
- 5 personnel of the university;
- 6 (12) Employees engaged in special, research, or
- 7 demonstration projects approved by the governor;
- 8 (13) (A) Positions filled by inmates, patients of state
- 9 institutions, persons with severe physical or
- 10 mental disabilities participating in the work
- 11 experience training programs;
- 12 (B) Positions filled with students in accordance with
- 13 guidelines for established state employment
- 14 programs; and
- 15 (C) Positions that provide work experience training
- 16 or temporary public service employment that are
- 17 filled by persons entering the workforce or
- 18 persons transitioning into other careers under
- 19 programs such as the federal Workforce Investment
- 20 Act of 1998, as amended, or the Senior Community
- 21 Service Employment Program of the Employment and



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1 Training Administration of the United States
2 Department of Labor, or under other similar state
3 programs;

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

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

13 (16) Positions of first deputies or first assistants of
14 each department head appointed under or in the manner
15 provided in section 6, article V, of the Hawaii State
16 Constitution; [~~three~~] two additional deputies or
17 assistants either in charge of the highways[~~7~~] and
18 harbors[~~7~~, ~~and airports~~] divisions or other functions
19 within the department of transportation as may be
20 assigned by the director of transportation, with the
21 approval of the governor; four additional deputies in



1 the department of health, each in charge of one of the
2 following: behavioral health, environmental health,
3 hospitals, and health resources administration,
4 including other functions within the department as may
5 be assigned by the director of health, with the
6 approval of the governor; an administrative assistant
7 to the state librarian; and an administrative
8 assistant to the superintendent of education;

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

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

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

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



- 1 (19) Household employees at the official residence of the
2 president of the University of Hawaii;
- 3 (20) Employees in the department of education engaged in
4 the supervision of students during meal periods in the
5 distribution, collection, and counting of meal
6 tickets, and in the cleaning of classrooms after
7 school hours on a less than half-time basis;
- 8 (21) Employees hired under the tenant hire program of the
9 Hawaii public housing authority; provided that not
10 more than twenty-six per cent of the authority's
11 workforce in any housing project maintained or
12 operated by the authority shall be hired under the
13 tenant hire program;
- 14 (22) Positions of the federally funded expanded food and
15 nutrition program of the University of Hawaii that
16 require the hiring of nutrition program assistants who
17 live in the areas they serve;
- 18 (23) Positions filled by persons with severe disabilities
19 who are certified by the state vocational
20 rehabilitation office that they are able to perform
21 safely the duties of the positions;



- 1 (24) The sheriff;
- 2 (25) A gender and other fairness coordinator hired by the
- 3 judiciary;
- 4 (26) Positions in the Hawaii National Guard youth and adult
- 5 education programs;
- 6 (27) In the state energy office in the department of
- 7 business, economic development, and tourism, all
- 8 energy program managers, energy program specialists,
- 9 energy program assistants, and energy analysts; [~~and~~]
- 10 (28) Administrative appeals hearing officers in the
- 11 department of human services[-]; and
- 12 (29) The chief executive officer of the Hawaii airports
- 13 corporation, all other executive officers the chief
- 14 executive officer may appoint pursuant to
- 15 section -3(d), and fifteen positions that the chief
- 16 executive officer is authorized to fill by appointing
- 17 specially qualified personnel pursuant to section
- 18 -3(d).

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



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

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

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

14 SECTION 9. 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



1 after May 20, 2003, and not otherwise awarded, submerged lands,
2 and lands beneath tidal waters that are suitable for
3 reclamation, together with reclaimed lands that have been given
4 the status of public lands under this chapter, except:

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



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



1 (11) Lands to which the Hawaii airports corporation holds
2 title;

3 [~~(11)~~] (12) Lands to which the Hawaii technology development
4 corporation in its corporate capacity holds title;
5 [~~and~~]

6 [~~(12)~~] (13) Lands to which the department of education holds
7 title;

8 provided that, except as otherwise limited under federal law and
9 except for state land used as an airport as defined in section
10 262-1, public lands shall include the air rights over any
11 portion of state land upon which a county mass transit project
12 is developed after July 11, 2005."

13 SECTION 10. On and after the transfer completion date
14 established by the Hawaii airports corporation in section 12(b)
15 of this Act, and until the revisor of statutes makes the
16 amendments to chapters 102, 261, 261D, and 262, Hawaii Revised
17 Statutes, described in this section, every reference to the
18 department of transportation or "department" or its role in
19 awarding concessions in chapters 102, 261, 261D, and 262, Hawaii
20 Revised Statutes, shall be a reference to the Hawaii airports
21 corporation, and every reference to the director of



1 transportation or "department" or the director's role in
2 awarding concessions in chapters 102, 261, 261D, and 262, Hawaii
3 Revised Statutes, shall be a reference to the board of directors
4 or the chief executive officer of the Hawaii airports
5 corporation depending upon which of the two is authorized to act
6 under the new chapter added to the Hawaii Revised Statutes in
7 section 2 of this Act. After the transfer completion date but
8 no later than when the subsequent supplements to the Hawaii
9 Revised Statutes are prepared, the revisor of statutes shall
10 substitute the phrase "board of directors" or "chief executive
11 officer" for the terms "director" or "director of
12 transportation", depending upon which of the two is authorized
13 to act under the new chapter added to the Hawaii Revised
14 Statutes in section 2 of this Act; the term "Hawaii airports
15 corporation" for the term "department of transportation", the
16 term "corporation" for the term "department", and shall delete
17 the definition of "director", in chapters 261 and 262, Hawaii
18 Revised Statutes.

19 SECTION 11. The Hawaii airports corporation shall succeed
20 to the jurisdiction, powers, and responsibilities of the
21 department of transportation over aeronautics and airports,



1 including all of the functions relating to airports and
2 aeronautics performed by the department and its airports
3 division, on the transfer completion date published by the
4 Hawaii airports corporation pursuant to section 12(b) of this
5 Act, which date shall be no later than December 31, 2022.

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

8 (1) That:

- 9 (A) Certain Certificate of the Director of
10 Transportation Providing for the Issuance of
11 State of Hawaii Airports System Revenue Bonds
12 dated as of May 1, 1969, relating to certain
13 revenue bonds and other obligations;
- 14 (B) Certain Indenture of Trust dated as of December
15 1, 2013, between the department of transportation
16 and U.S. Bank National Association relating to
17 certain certificates of participation; and
- 18 (C) Certain Indenture of Trust dated as of August 1,
19 2014, between the department of transportation
20 and MUFG Union Bank, N.A., relating to certain



1 customer facility charge revenue bonds, each as
2 supplemented and amended to date; and

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

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

13 SECTION 12. (a) Within ninety days of the effective date
14 of this Act, the governor shall designate a representative who
15 shall facilitate the corporation's orderly succession to the
16 jurisdiction, powers, functions, rights, benefits, obligations,
17 assets, liabilities, funds, accounts, contracts, and all other
18 things currently held, used, incurred, or performed by the
19 department of transportation, its director and staff, and its
20 airports division, in administering and exercising the authority
21 and fulfilling the responsibilities authorized or conferred upon



1 the department of transportation and the director of
2 transportation, by chapters 102, 261, 261D, and 262, Hawaii
3 Revised Statutes.

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

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

- 16 (1) Provide administrative support services for the
17 corporation pending the transfer of employees from the
18 department of transportation to the Hawaii airports
19 corporation pursuant to section 16 of this Act;
- 20 (2) Develop a policy and set of procurement procedures
21 that foster accountability, transparency and oversight



- 1 of contracts, to include compliance with federal
2 procurement requirements;
- 3 (3) Assist the corporation with the organization of its
4 human resources development functions, including
5 establishing:
- 6 (A) A human resources office;
- 7 (B) The corporation's civil service and civil service
8 positions, and the classification system, merit
9 appeals board, recruitment system, performance
10 appraisal system, and the administrative rules,
11 policies, standards, and procedures, including
12 internal complaint procedures, adopted to support
13 its civil service; and
- 14 (C) The corporation's exempt and excluded positions,
15 and guidelines, procedures, and policies for
16 filling them, and compensating the officers and
17 employees who fill them;
- 18 (4) Assist the corporation in establishing its accounting,
19 budgeting, fund management, and communication and
20 electronic information systems, and creating
21 appropriate interfaces between the corporation's



1 accounting, budgeting, fund management, communication
2 and electronic information systems, and those of the
3 department of transportation, and other state
4 agencies;

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

15 (6) Expeditiously transfer or otherwise facilitate the
16 corporation's acquisition or assumption of all of the
17 powers, functions, rights, benefits, obligations,
18 assets, funds, accounts, contracts, and all other
19 things held, used, incurred, or performed by the
20 department of transportation, its director and staff,
21 and its airports division, in exercising the authority



1 and fulfilling the responsibilities conferred upon the
2 department of transportation and the director of
3 transportation by chapters 102, 261, 261D, and 262,
4 Hawaii Revised Statutes;

5 (7) Assign and transfer:

6 (A) That certain Certificate of the Director of
7 Transportation Providing for the Issuance of
8 State of Hawaii Airports System Revenue Bonds
9 dated as of May 1, 1969, relating to certain
10 revenue bonds and other obligations;

11 (B) That certain Indenture of Trust dated as of
12 December 1, 2013, between the department of
13 transportation and U.S. Bank National Association
14 relating to certain certificates of
15 participation; and

16 (C) That certain Indenture of Trust dated as of
17 August 1, 2014, between the department of
18 transportation and MUFG Union Bank, N.A.,
19 relating to certain customer facility charge
20 revenue bonds, each as supplemented and amended
21 to date; the assumption of all indebtedness of



1 the department of transportation heretofore
2 issued and outstanding thereunder; and the
3 adoption of policies and procedures designed to
4 ensure continuing compliance with the terms
5 thereof for so long as they are applicable; and

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

9 (b) As soon as feasible, the Hawaii airports corporation,
10 with the concurrence of the director of transportation and the
11 governor, shall establish the transfer completion date, which
12 shall be no later than December 31, 2022, and publish notice of
13 the transfer completion date by:

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

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

19 (3) Providing a copy of the notice to the department of
20 transportation, the Secretaries of the United States
21 Department of Transportation and Department of



1 Defense, the head of the Federal Aviation
2 Administration, and the head of every other state
3 department; and

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

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

8 SECTION 13. It is the intent of this Act not to jeopardize
9 the receipt of any federal aid nor to impair any existing
10 federal income tax exemption to, security interest of, or
11 obligation of the State or any agency thereof to the holders of
12 any bonds or other obligations issued by the State or by any
13 department or agency of the State, and to the extent, and only
14 to the extent necessary to effectuate this intent, the governor
15 may modify the strict provisions of this Act, but shall promptly
16 report any modification with reasons therefor to the legislature
17 at its next session thereafter for review by the legislature.

18 SECTION 14. This Act does not affect rights and duties
19 that matured, penalties that were incurred, and proceedings that
20 were begun before its effective date. The department of
21 transportation shall be responsible for any and all obligations,



1 incurred by the department or its airports division in
2 connection with the department's exercise of the authority and
3 performance of the duties and responsibilities conferred upon it
4 and its director by chapters 261, 261D, and 262, Hawaii Revised
5 Statutes, until the time that the obligations, including any
6 accounts payable, accrued paid time off, debt, capital leases,
7 and other obligations incurred before the transfer completion
8 date, have been assumed by the Hawaii airports corporation,
9 which shall not occur prior to the transfer completion date.

10 All collective bargaining disputes or claims against the
11 department grounded in an act or omission, or an event that
12 occurred prior to the transfer completion date shall remain the
13 responsibility of the department of transportation. All
14 liabilities arising out of the Hawaii airports corporation's
15 exercise of the authority and performance of the duties and
16 responsibilities conferred upon it and its chief executive
17 officer by chapters 102, 261, 261D, and 262, Hawaii Revised
18 Statutes, after the transfer completion date shall be the
19 responsibility of the corporation. The assumption by the
20 airports corporation of the bonds, notes, or other obligations
21 of the department of transportation relating to the State's



1 airports system shall be subject to the terms and provisions of
2 any certificate, indenture, or resolution securing those bonds,
3 notes, or other obligations. On the transfer completion date,
4 the Hawaii airports corporation shall assume responsibility for
5 all rights, duties, penalties, and proceedings of the department
6 of transportation related to the State's airports system.

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



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

17 SECTION 16. The Hawaii airports corporation shall
18 recognize all bargaining units and collective bargaining
19 agreements existing at the time of transfer to the
20 corporation. All employees who are subject to chapter 76,
21 Hawaii Revised Statutes, and occupy civil service positions and



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

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

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



1 or privileges as a consequence of this Act. The chief executive
2 officer of the Hawaii airports corporation may prescribe the
3 duties and qualifications of these employees and fix their
4 salaries without regard to chapter 76, Hawaii Revised Statutes.

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

8 SECTION 17. On or no more than ninety days after the
9 transfer completion date, all appropriations, records,
10 equipment, machines, files, supplies, contracts, books, papers,
11 documents, maps, and other personal property heretofore made,
12 used, acquired, or held by the department of transportation
13 relating to the functions transferred to the Hawaii airports
14 corporation shall be transferred with the functions to which
15 they relate.

16 SECTION 18. All rules, policies, procedures, guidelines,
17 and other material adopted or developed by the department of
18 transportation to implement provisions of the Hawaii Revised
19 Statutes that are reenacted or made applicable to the Hawaii
20 airports corporation by this Act shall remain in full force and
21 effect on and after the transfer completion date established



1 pursuant to section 12(b) of this Act, until amended or repealed
2 by the Hawaii airports corporation pursuant to chapter 91,
3 Hawaii Revised Statutes. In the interim, every reference to the
4 department of transportation or director of transportation in
5 those rules, policies, procedures, guidelines, and other
6 material is amended to refer to the Hawaii airports corporation
7 or chief executive officer of the corporation, as appropriate.

8 SECTION 19. All deeds, executive orders, leases,
9 contracts, loans, agreements, permits, or other documents
10 executed or entered into by or on behalf of the department of
11 transportation, pursuant to the provisions of the Hawaii Revised
12 Statutes, that are reenacted or made applicable to the Hawaii
13 airports corporation by this Act shall remain in full force and
14 effect. On the transfer completion date established pursuant to
15 section 12(b) of this Act, every reference to the department of
16 transportation in those deeds, executive orders, leases,
17 contracts, loans, agreements, permits or other documents shall
18 be construed as a reference to the Hawaii airports corporation
19 or the board of directors of the corporation.

20 SECTION 20. There is appropriated out of the airport
21 revenue fund the sum of \$3,000,000 or so much thereof as may be



1 necessary for fiscal year 2019-2020, and the sum of \$
2 or so much thereof as may be necessary for fiscal year 2020-2021
3 to effect the transfer of functions from the department of
4 transportation to the Hawaii airports corporation required by
5 this Act.

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

8 SECTION 21. If any provision of this Act, or the
9 application thereof to any person or circumstance, is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act that can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 22. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 23. This Act shall take effect on July 1, 2019.

17

INTRODUCED BY:


BY REQUEST



S.B. NO. 1536

Report Title:

Tourism; Transportation; Aeronautics; Hawaii Airports Corporation; Establishment; DOT; Appropriation

Description:

Authorizes establishment of the Hawaii Airports Corporation within the Department of Transportation for administrative purposes. Sets out appointment of members to the board of directors and powers and duties of the Hawaii Airports Corporation. Exempts the Hawaii Airports Corporation from the procurement code. Transfers aeronautics functions of the Department of Transportation to the Hawaii Airports Corporation by the established transfer completion date agreed upon by the Hawaii Airports Corporation, the Director of Transportation, and the Governor, which shall be no later than 12/31/2022. 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.

