

JAN 18 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 and giving a
3 separate state entity overall jurisdiction and responsibility
4 for 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 the State's airports to
9 Hawaii's economy;
- 10 (2) Ensuring dedicated expert airport leadership,
11 management continuity, and year-round decision-making,
12 consistent with industry best practices;
- 13 (3) Improving administrative efficiency by streamlining
14 administrative processes;
- 15 (4) Accelerating the planning and implementation of the
16 state airports' capital improvement programs;
- 17 (5) Increasing the financial flexibility and strength of
18 the State's airports;
- 19 (6) Increasing economic opportunities for the State, in
20 collaboration with the Hawaii tourism authority;



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

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

18 "CHAPTER

19 HAWAII AIRPORTS CORPORATION

20 PART I. GENERAL PROVISIONS

21 § -1 Definitions. As used in this chapter:



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

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

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

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

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

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

13 **§ -2 Airports corporation; establishment; board;**
14 **members; chief executive officer.** (a) There is established the
15 Hawaii airports corporation to:

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

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



1 (3) Administer the provisions of chapters 102, 261, 261D,
2 and 262 that are applicable to airports and
3 aeronautical facilities. The corporation shall be a
4 body politic and corporate, and an instrumentality and
5 agency of the State, placed within the department of
6 transportation for administrative purposes only, and
7 shall enjoy the same sovereign immunity available to
8 the State. The corporation shall not be subject to
9 supervision by the department of transportation or its
10 director and shall be exempt from section 26-35(a)(1),
11 (4), (5), and (6).

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

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

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



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

10 (4) Notwithstanding the state residency provisions of
11 section 78-1(b), no more than two members shall be
12 non-residents of the State.

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

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



1 wide cross-section of these disciplines represented by the
2 board.

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

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

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

13 (g) The airports corporation shall be headed by a single
14 executive to be known as the chief executive officer of the
15 Hawaii airports corporation, who shall:

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

19 (h) The chief executive officer:

- 20 (1) Shall be selected based on criteria approved by the
21 board, including experience in airport management at



1 an executive level at a large-hub or medium-hub
2 airport within the United States, management of large-
3 scale capital programs, and domestic and international
4 air service development;

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

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

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

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

20 (6) Shall, except when excused by the board, attend all
21 meetings of the board, keep a record of the



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

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

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

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

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



1 responsibilities, and receive the salary, of the chief executive
2 officer.

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

8 § -3 Powers; generally. (a) The Hawaii airports
9 corporation, by and through its board of directors:

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

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



- 1 (3) Shall establish performance targets and performance
2 standards for all state airports to achieve the
3 highest levels of customer service;
- 4 (4) Shall ensure that appropriate mission statements,
5 business plans, minimum development standards, and
6 strategic goals are established and that progress
7 towards their accomplishment is regularly assessed and
8 reported;
- 9 (5) Shall develop an organization and management structure
10 to best accomplish the goals of the Hawaii airport
11 system and the corporation;
- 12 (6) May establish rules pursuant to chapter 91 that
13 supersede chapter 103D; provided that prior to the
14 establishment of such rules the corporation shall be
15 subject to the procurement requirements of chapter
16 103D. The rules shall provide, at a minimum, for the
17 following:
 - 18 (A) Creating a chief procurement officer position to
19 oversee a centralized set of procurement
20 professionals to conduct procurement;



- 1 (B) Establishing and maintaining internal policies
- 2 and procedures for the timely and efficient
- 3 procurement of goods and services, including
- 4 planning; engineering; and construction services,
- 5 including post-award contract management and
- 6 oversight procedures, that are consistent with
- 7 the goals of public accountability and public
- 8 procurement practices;
- 9 (C) Publishing procurement policies, to be made
- 10 available to the public;
- 11 (D) Implementing and maintaining an electronic
- 12 procurement system to ensure electronic posting,
- 13 including requisition-to-check, contract
- 14 management, and spend analysis modules; provided
- 15 that all solicitations, including any bid
- 16 openings, and additional solicitation documents
- 17 shall be made available online;
- 18 (E) Developing key performance indicators covering
- 19 the following four areas:
- 20 (i) Effective management and increased
- 21 efficiency of the procurement process;



- 1 (ii) Contract management and supplier
- 2 performance;
- 3 (iii) Transparency, openness, and accountability
- 4 of procurement processes; and
- 5 (iv) Professionalism of the procurement
- 6 workforce;
- 7 (F) Developing a robust training and procurement
- 8 delegation system;
- 9 (G) Requiring professional services contracts for
- 10 licensees defined under chapter 464 to be
- 11 procured in accordance with section 103D-304;
- 12 (H) Disallowing cost plus percentage of cost type
- 13 contracts;
- 14 (I) Requiring that, insofar as practical, and based
- 15 on specifications developed, adequate and
- 16 reasonable competition of no fewer than three
- 17 proposals shall be solicited for each project;
- 18 (J) Requiring the following factors to be considered
- 19 in determining the offeror with the most
- 20 advantageous proposal: quality; warranty;
- 21 delivery; and full lifecycle costs, including



- 1 handover, surge, and disaster preparedness
2 factors; and a best-value award, including a past
3 performance evaluation factor;
- 4 (K) Prohibiting the artificial division or parceling
5 of procurement requirements meant to circumvent
6 competitive bidding or competitive proposals; and
- 7 (L) Implementing a dispute resolution process for
8 procurement award and post-award contract
9 actions;
- 10 (7) Shall have an official seal and may alter the official
11 seal at its pleasure;
- 12 (8) May make, execute, or assume contracts, leases, and
13 all other instruments necessary or convenient for the
14 exercise of its powers and functions under this
15 chapter and the provisions of chapters 102, 261, 261D,
16 and 262 that are applicable to airports and
17 aeronautical facilities;
- 18 (9) Shall establish bylaws for its organization and
19 internal management;
- 20 (10) Shall adopt rules pursuant to chapter 91 as necessary
21 to implement this chapter and the provisions of



1 chapters 102, 261, 261D, and 262 that are applicable
2 to airports and aeronautical facilities;
3 (11) Shall prepare and adopt the corporation's operating
4 and capital budgets;
5 (12) May own, purchase, lease, exchange, or otherwise
6 acquire property, whether real, personal, or mixed,
7 tangible or intangible, and any interest therein, in
8 the name of the corporation, and may assign, exchange,
9 transfer, convey, lease, sublease, or encumber the
10 same or any project, improvement, or facility related
11 thereto; provided that the lands to which the
12 corporation holds title shall not be subject to
13 chapter 171; provided further that any sale, gift, or
14 exchange of real property shall be subject to the
15 terms, conditions, and restrictions applicable to the
16 sale, gift, or exchange of public lands in section
17 171-50 and 171-64.7; provided further that any lease,
18 sublease permit, or other encumbrance for any real
19 property shall be issued in accordance with
20 administrative rules adopted by the corporation
21 pursuant to chapter 91;



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

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

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

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

12 (A) That:

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

18 (ii) Certain Indenture of Trust dated as of
19 December 1, 2013, between the department of
20 transportation and U.S. Bank National



1 Association relating to certain certificates
2 of participation; and
3 (iii) Certain Indenture of Trust dated as of
4 August 1, 2014, between the department of
5 transportation and MUFG Union Bank, N.A.,
6 relating to certain customer facility charge
7 revenue bonds, each as supplemented and
8 amended to date; and
9 (B) The bonds, notes, and other obligations of the
10 department of transportation outstanding under,
11 as well as the covenants, restrictions, and other
12 requirements set forth in, those documents;
13 (17) Shall adopt policies and procedures designed to ensure
14 continuing compliance with the terms of the documents
15 in paragraph (16) for so long as they are applicable;
16 (18) Shall fix, impose, prescribe, and collect rates,
17 rentals, fees, or charges for the lease, use, and
18 services of its airport facilities at least sufficient
19 to pay the costs of operation, maintenance, and
20 repair, if any, and the required payments of the
21 principal of and interest on all bonds, notes, or



1 other obligations issued or assumed by the airports
2 corporation and reserves therefor; provided that the
3 rates, rentals, fees, or charges are established at an
4 open meeting subject to the requirements of chapter
5 92;

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

16 (20) May invest and secure its moneys;

17 (21) May exercise the power of eminent domain pursuant to
18 chapter 101 and in accordance with sections 261-31 to
19 261-36, to acquire real property for the corporation
20 with which to carry out this chapter and the



1 provisions of chapters 102, 261, 261D, or 262 that are
2 applicable to airports and aeronautical facilities;

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

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

10 (b) The corporation shall not be subject to chapters 36,
11 37, 38, and 40, except for section 36-28.5 and as otherwise
12 provided in this chapter and chapter 261.

13 (c) The airports corporation may sue and be sued in its
14 corporate name. Notwithstanding any other law to the contrary,
15 all claims arising out of the acts or omissions of the airports
16 corporation or the members of its board, its officers, or its
17 employees, including claims permitted against the State under
18 chapter 661, part I, and claims for torts permitted against the
19 State under chapter 662, may be brought only pursuant to this
20 section and only against the airports corporation. However, the
21 airports corporation shall be subject to suit only in the manner



1 provided for suits against the State, including section 661-11.
2 All defenses available to the State, as well as all limitations
3 on actions against the State, shall be applicable to the
4 airports corporation.

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

18 Rights and remedies conferred by this section shall not be
19 construed to authorize any other claim, suit, or action against
20 the State. In addition, a judgment, compromise, or settlement
21 in an action brought against the airports corporation under this



1 section shall constitute a complete bar to any action brought by
2 the claimant, by reason of the same subject matter, against the
3 State or an officer or employee of the airports corporation.

4 (d) The corporation shall be a "jurisdiction" and an
5 "appointing authority" under chapter 76 and an "appointing
6 authority" and an "appropriate authority" for those of its
7 officers and employees who are excluded employees under chapter
8 89C. In addition to its chief executive officer, the
9 corporation may employ executive officers, including a chief
10 procurement officer appointed by the chief executive officer who
11 are qualified to fill positions established in the bylaws of the
12 corporation adopted by the board of directors, to perform
13 functions and exercise powers assigned by the bylaws or
14 delegated by the board or the chief executive officer. The
15 other executive officers of the corporation, and up to fifteen
16 additional specially qualified employees appointed by the chief
17 executive officer shall be exempt from chapters 76 and 89. All
18 other persons employed by the corporation shall be subject to
19 chapters 76 and 89, and rules adopted to implement those
20 provisions, unless expressly exempted from the civil service
21 under chapter 76 or excluded from collective bargaining under



1 chapter 89. The officers and personnel of the corporation shall
2 be included in all benefit programs applicable to officers and
3 employees of the State.

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

12 PART II. BUDGET AND FINANCE

13 § -11 Exemptions. The airport revenue fund, passenger
14 facility charge special fund, and rental motor vehicle customer
15 facility charge special fund shall be exempt from chapters 36,
16 37, and 40.

17 § -12 Fiscal provisions. (a) The corporation's board
18 of directors shall establish guidelines for preparing the
19 corporation's annual operating and capital budget proposals that
20 take into account anticipated receipts, surpluses, reserves, and
21 funds from any other source, on deposit in or available for



1 deposit into the airport revenue fund, the passenger facility
2 charge special fund, the rental motor vehicle customer facility
3 charge special fund, or any other special or revolving fund that
4 the legislature may establish for the corporation.

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

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

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

20 (e) Notwithstanding sections 37-71 and 37-72, the governor
21 shall include in the executive budget one lump sum for each



1 means or source of funds for the corporation's operating and
2 capital budget proposals in the amounts specified in the budget
3 proposals transmitted to the governor by the department of
4 transportation pursuant to subsection (b).

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

8 § -13 **Budget oversight.** The corporation's operating and
9 capital budgets shall not be subject to review or approval by
10 the governor or any agency of the executive branch, except where
11 state general funds are requested.

12 § -14 **Accounts; depositories.** (a) Appropriations for
13 the corporation shall not be subject to any allotment system or
14 requirements. The director of finance shall notify the
15 corporation and the comptroller that all of the appropriations
16 for the corporation for the fiscal year have been allotted and
17 are available for expenditure as soon as possible, and in no
18 event more than three business days, after the general or
19 supplemental appropriation act is effective.

20 (b) Moneys in the airport revenue fund, passenger facility
21 charge special fund, and rental motor vehicle customer facility



1 charge special fund may be deposited in depositories other than
2 the state treasury; provided that the airports corporation
3 consults with the director of finance before selecting such a
4 depository for the corporation's funds, and submits copies of
5 annual statements from each of the depositories in which the
6 moneys from the funds are deposited.

7 § -15 **Expenditures in excess of appropriations.** If in
8 any fiscal year the amount of revenues deposited into the
9 airport revenue fund exceeds the amount appropriated from that
10 fund for that year, the board of directors of the corporation
11 may approve expenditures in excess of the amount appropriated,
12 up to the amount by which revenues for that fund exceed the
13 appropriations from that fund for a fiscal year.

14 § -16 **Issuance of bonds.** On an annual basis, and upon
15 request of the corporation, the legislature shall authorize one
16 lump sum for each means or source of funds for each of the
17 following types of bonds to be issued by the corporation:
18 revenue bonds, refunding revenue bonds, and special facility
19 revenue bonds.

20 § -17 **Audits.** The corporation shall submit a copy of
21 its annual Single Audit Report required by the Single Audit Act



1 of 1984 (as amended) and in title 2 Code of Federal Regulations
2 Subpart F to the auditor."

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

5 "§26-19 Department of transportation. The department of
6 transportation shall be headed by a single executive to be known
7 as the director of transportation. The department shall
8 establish, maintain, and operate transportation facilities of
9 the State, including highways, [~~airports,~~] harbors, and such
10 other transportation facilities and activities, other than
11 airports and aeronautics, as may be authorized by law.

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

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



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

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

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

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

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

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



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



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



1 (22) By the Hawaii airports corporation; or
2 [~~(22)~~] (23) By a department, if the attorney general, for
3 reasons deemed by the attorney general to be good and
4 sufficient, declines to employ or retain an attorney
5 for a department; provided that the governor waives
6 the provision of this section."

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

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

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



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

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

13 "\"Jurisdiction\" means the State, the city and county of
14 Honolulu, the county of Hawaii, the county of Maui, the county
15 of Kauai, the judiciary, the department of education, the
16 University of Hawaii, the Hawaii airports corporation, and the
17 Hawaii health systems corporation."

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

20 "(b) The civil service to which this chapter applies shall
21 comprise all positions in the State now existing or hereafter



1 established and embrace all personal services performed for the
2 State, except the following:

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

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

17 (3) Positions that must be filled without delay to comply
18 with a court order or decree if the director
19 determines that recruitment through normal recruitment
20 civil service procedures would result in delay or



- 1 noncompliance, such as the Felix-Cayetano consent
2 decree;
- 3 (4) Positions filled by the legislature or by either house
4 or any committee thereof;
- 5 (5) Employees in the office of the governor and office of
6 the lieutenant governor, and household employees at
7 Washington Place;
- 8 (6) Positions filled by popular vote;
- 9 (7) Department heads, officers, and members of any board,
10 commission, or other state agency whose appointments
11 are made by the governor or are required by law to be
12 confirmed by the senate;
- 13 (8) Judges, referees, receivers, masters, jurors, notaries
14 public, land court examiners, court commissioners, and
15 attorneys appointed by a state court for a special
16 temporary service;
- 17 (9) One bailiff for the chief justice of the supreme court
18 who shall have the powers and duties of a court
19 officer and bailiff under section 606-14; one
20 secretary or clerk for each justice of the supreme
21 court, each judge of the intermediate appellate court,



1 and each judge of the circuit court; one secretary for
2 the judicial council; one deputy administrative
3 director of the courts; three law clerks for the chief
4 justice of the supreme court, two law clerks for each
5 associate justice of the supreme court and each judge
6 of the intermediate appellate court, one law clerk for
7 each judge of the circuit court, two additional law
8 clerks for the civil administrative judge of the
9 circuit court of the first circuit, two additional law
10 clerks for the criminal administrative judge of the
11 circuit court of the first circuit, one additional law
12 clerk for the senior judge of the family court of the
13 first circuit, two additional law clerks for the civil
14 motions judge of the circuit court of the first
15 circuit, two additional law clerks for the criminal
16 motions judge of the circuit court of the first
17 circuit, and two law clerks for the administrative
18 judge of the district court of the first circuit; and
19 one private secretary for the administrative director
20 of the courts, the deputy administrative director of
21 the courts, each department head, each deputy or first



- 1 assistant, and each additional deputy, or assistant
2 deputy, or assistant defined in paragraph (16);
- 3 (10) First deputy and deputy attorneys general, the
4 administrative services manager of the department of
5 the attorney general, one secretary for the
6 administrative services manager, an administrator and
7 any support staff for the criminal and juvenile
8 justice resources coordination functions, and law
9 clerks;
- 10 (11) (A) Teachers, principals, vice-principals, complex
11 area superintendents, deputy and assistant
12 superintendents, other certificated personnel,
13 not more than twenty noncertificated
14 administrative, professional, and technical
15 personnel not engaged in instructional work;
- 16 (B) Effective July 1, 2003, teaching assistants,
17 educational assistants, bilingual/bicultural
18 school-home assistants, school psychologists,
19 psychological examiners, speech pathologists,
20 athletic health care trainers, alternative school
21 work study assistants, alternative school



- 1 educational/supportive services specialists,
2 alternative school project coordinators, and
3 communications aides in the department of
4 education;
- 5 (C) The special assistant to the state librarian and
6 one secretary for the special assistant to the
7 state librarian; and
- 8 (D) Members of the faculty of the University of
9 Hawaii, including research workers, extension
10 agents, personnel engaged in instructional work,
11 and administrative, professional, and technical
12 personnel of the university;
- 13 (12) Employees engaged in special, research, or
14 demonstration projects approved by the governor;
- 15 (13) (A) Positions filled by inmates, patients of state
16 institutions, persons with severe physical or
17 mental disabilities participating in the work
18 experience training programs;
- 19 (B) Positions filled with students in accordance with
20 guidelines for established state employment
21 programs; and



1 (C) Positions that provide work experience training
2 or temporary public service employment that are
3 filled by persons entering the workforce or
4 persons transitioning into other careers under
5 programs such as the federal Workforce Investment
6 Act of 1998, as amended, or the Senior Community
7 Service Employment Program of the Employment and
8 Training Administration of the United States
9 Department of Labor, or under other similar state
10 programs;

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

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

20 (16) Positions of first deputies or first assistants of
21 each department head appointed under or in the manner



1 provided in section 6, article V, of the Hawaii State
2 Constitution; [~~three~~] two additional deputies or
3 assistants either in charge of the highways[~~]~~ and
4 harbors [~~and airports~~] divisions or other functions
5 within the department of transportation as may be
6 assigned by the director of transportation, with the
7 approval of the governor; four additional deputies in
8 the department of health, each in charge of one of the
9 following: behavioral health, environmental health,
10 hospitals, and health resources administration,
11 including other functions within the department as may
12 be assigned by the director of health, with the
13 approval of the governor; an administrative assistant
14 to the state librarian; and an administrative
15 assistant to the superintendent of education;

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

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



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

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

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

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

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



- 1 (22) Positions of the federally funded expanded food and
2 nutrition program of the University of Hawaii that
3 require the hiring of nutrition program assistants who
4 live in the areas they serve;
- 5 (23) Positions filled by persons with severe disabilities
6 who are certified by the state vocational
7 rehabilitation office that they are able to perform
8 safely the duties of the positions;
- 9 (24) The sheriff;
- 10 (25) A gender and other fairness coordinator hired by the
11 judiciary;
- 12 (26) Positions in the Hawaii National Guard youth and adult
13 education programs;
- 14 (27) In the state energy office in the department of
15 business, economic development, and tourism, all
16 energy program managers, energy program specialists,
17 energy program assistants, and energy analysts; [and]
- 18 (28) Administrative appeals hearing officers in the
19 department of human services[-]; and
- 20 (29) The chief executive officer of the Hawaii airports
21 corporation, all other executive officers the chief



1 executive officer may appoint pursuant to section
2 -3(d), and fifteen positions that the chief
3 executive officer is authorized to fill by appointing
4 specially qualified personnel pursuant to section
5 -3(d).

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

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

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

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



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

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

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

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

9 (3) The Hawaii airports corporation."

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:



- 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 airports corporation holds
2 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 airports corporation holds title shall be
9 considered "public lands" for the purpose of accounting of all
10 receipts from lands that are described in section 5(f) of the
11 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 261-7, Hawaii Revised Statutes, is
14 amended by amending subsection (e) to read as follows:

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



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

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



1 If the [~~director~~] chief executive officer has not entered
2 into contracts, leases, licenses, and other agreements with any
3 or fewer than all of the aeronautical users of the statewide
4 system of airports prior to the expiration of an existing
5 contract, lease, license, or agreement, the [~~director~~] chief
6 executive officer shall set and impose rates, rentals, fees, and
7 charges pursuant to this subsection without regard to the
8 requirements of chapter 91; provided that a public informational
9 hearing shall be held on the rates, rentals, fees, and charges.

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



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

8 The rates, rentals, fees, and charges determined by the
9 [~~director~~] chief executive officer in the manner set forth in
10 this subsection shall be those charges payable by the
11 aeronautical users for the periods immediately following the
12 date of expiration of the existing contract, lease, license, or
13 agreement. If fees are established pursuant to this section,
14 the [~~department~~] corporation shall prepare a detailed report on
15 the circumstances and rates and charges that have been
16 established, and shall submit the report to the legislature no
17 later than twenty days prior to the convening of the next
18 regular session.

19 If a schedule of rates, rentals, fees, and charges
20 developed by the [~~director~~] chief executive officer in
21 accordance with this section is projected by the [~~department~~]



1 corporation to produce revenues [~~which,~~] that, together with
2 aviation fuel taxes, will be in excess of the amount required to
3 meet the expenditures of the statewide system of airports set
4 forth in section 261-5(a), including expenditures for capital
5 improvement projects approved by the legislature, and to comply
6 with covenants and agreements with holders of airport revenue
7 bonds, the [~~department~~] corporation shall submit the schedule of
8 rates, rentals, fees, and charges to the legislature prior to
9 the convening of the next regular session of the legislature.
10 Within forty-five days after the convening of the regular
11 session, the legislature may disapprove any schedule of rates,
12 rentals, fees, and charges required to be submitted to it by
13 this section by concurrent resolution. If no action is taken by
14 the legislature within the forty-five-day period the schedule of
15 rates, rentals, fees, and charges shall be deemed approved. If
16 the legislature disapproves the schedule within the forty-five-
17 day period, the [~~director~~] chief executive officer shall develop
18 a new schedule of rates, rentals, fees, and charges in
19 accordance with this section within seventy-five days of the
20 disapproval. Pending the development of a new schedule of



1 rates, rentals, fees, and charges, the schedule submitted to the
2 legislature shall remain in force and effect.

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

7 (1) The governor declares a state of emergency; and

8 (2) The [~~department~~] corporation determines that the
9 waiver of landing fees and other charges for the
10 aircraft is consistent with assisting in the delivery
11 of humanitarian relief to disaster-stricken areas of
12 the State."

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



1 reference to the director of transportation or "director" or the
2 director's role in awarding concessions in chapters 102, 261,
3 261D, and 262, Hawaii Revised Statutes, shall be a reference to
4 the chief executive officer of the Hawaii airports corporation.
5 After the transfer completion date but no later than when the
6 subsequent supplements to the Hawaii Revised Statutes are
7 prepared, the revisor of statutes shall make appropriate
8 changes, including, without limitation:

- 9 (1) Substituting the phrase "chief executive officer" for
10 the terms "director" or "director of transportation",
11 the term "Hawaii airports corporation" for the term
12 "department of transportation", and the term
13 "corporation" for the term "department";
14 (2) Deleting the definition of "director", in chapters 261
15 and 262, Hawaii Revised Statutes; and
16 (3) Deleting the definition of "department" in sections
17 261-1 and 262-1, Hawaii Revised Statutes.

18 SECTION 13. The Hawaii airports corporation shall succeed
19 to the jurisdiction, powers, and responsibilities of the
20 department of transportation over aeronautics and airports,
21 including all of the functions relating to airports and



1 aeronautics performed by the department and its airports
2 division, on the transfer completion date published by the
3 Hawaii airports corporation pursuant to section 14(b) of this
4 Act, which date shall be no later than December 31, 2022.

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

7 (1) That:

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

13 (B) Certain Indenture of Trust dated as of
14 December 1, 2013, between the department of
15 transportation and U.S. Bank National Association
16 relating to certain certificates of
17 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 14. (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 shall, if requested by the corporation, 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 18 of this Act;
- 20 (2) Develop a policy and set of robust procurement
21 procedures that foster accountability, transparency



- 1 and oversight of contracts, to include compliance with
2 federal 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 and administering the responsibilities
2 conferred upon the department of transportation and
3 the director of transportation by chapters 102, 261,
4 261D, and 262, 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 15. 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 16. 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.



1 The department of transportation shall be responsible for
2 any and all obligations incurred by the department or its
3 airports division in connection with the department's exercise
4 of the authority and performance of the duties and
5 responsibilities conferred upon it and its director by chapters
6 102, 261, 261D, and 262, Hawaii Revised Statutes, until the time
7 that the obligations, including any accounts payable, accrued
8 paid time off, debt, capital leases, and other obligations
9 incurred before the transfer completion date, have been assumed
10 by the Hawaii airports corporation, which shall not occur prior
11 to the transfer completion date. All collective bargaining
12 disputes or claims against the department grounded in an act or
13 omission, or an event that occurred prior to the transfer
14 completion date shall remain the responsibility of the
15 department of transportation. All liabilities arising out of
16 the Hawaii airports corporation's exercise of the authority and
17 performance of the duties and responsibilities conferred upon it
18 and its chief executive officer by chapters 102, 261, 261D, and
19 262, Hawaii Revised Statutes, after the transfer completion date
20 shall be the responsibility of the corporation. The assumption
21 by the airports corporation of the bonds, notes, or other



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

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



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

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



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

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

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



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

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

9 SECTION 19. On or no more than ninety days after the
10 transfer completion date, all appropriations, records,
11 equipment, machines, files, supplies, contracts, books, papers,
12 documents, maps, and other personal property heretofore made,
13 used, acquired, or held by the department of transportation
14 relating to the functions transferred to the Hawaii airports
15 corporation shall be transferred with the functions to which
16 they relate.

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



1 effect on and after the transfer completion date established
2 pursuant to section 14(b) of this Act, until amended or repealed
3 by the Hawaii airports corporation pursuant to chapter 91,
4 Hawaii Revised Statutes. In the interim, every reference to the
5 department of transportation or director of transportation in
6 those rules, policies, procedures, guidelines, and other
7 material is amended to refer to the Hawaii airports corporation
8 or chief executive officer of the corporation, as appropriate.

9 SECTION 21. All deeds, executive orders, leases,
10 contracts, loans, agreements, permits, or other documents
11 executed or entered into by or on behalf of the department of
12 transportation, pursuant to the provisions of the Hawaii Revised
13 Statutes, that are reenacted or made applicable to the Hawaii
14 airports corporation by this Act shall remain in full force and
15 effect. On the transfer completion date established pursuant to
16 section 14(b) of this Act, every reference to the department of
17 transportation in those deeds, executive orders, leases,
18 contracts, loans, agreements, permits or other documents shall
19 be construed as a reference to the Hawaii airports corporation
20 or the board of directors of the corporation.



1 SECTION 22. There is appropriated out of the airport
2 revenue fund the sum of \$3,000,000 or so much thereof as may be
3 necessary for fiscal year 2019-2020, to effect the transfer of
4 functions from the department of transportation to the Hawaii
5 airports corporation required by this Act.

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

8 SECTION 23. 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 24. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 25. This Act shall take effect on July 1, 2019;
17 provided that section 11 of this Act shall take effect upon the
18 satisfaction and discharge of:

19 (1) That certain Certificate of the Director of
20 Transportation Providing for the Issuance of the State



1 of Hawaii Airports System Revenue Bonds dated as of
 2 May 1, 1969;
 3 (2) That certain Indenture of Trust dated as of
 4 December 1, 2013, between the department of
 5 transportation and U.S. Bank National Association; and
 6 (3) All obligations issued and outstanding under the
 7 Certificate and Indenture.
 8

INTRODUCED BY: *Francis R. Inoué*

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S.B. NO. 666

Kurt Fulle
Kurt Fulle



S.B. NO. 666

Report Title:

Transportation; Hawaii Airports Corporation; Establishment; 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. 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.

