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

3 "Air navigation facility" shall have the same meaning as
4 defined in 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), there shall be no more than two
12 members who are non-residents of the State on the
13 board at any time.

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

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



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

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

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

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

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

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

20 (h) The chief executive officer:



- 1 (1) Shall be selected based on criteria approved by the
2 board, including experience in airport management at
3 an executive level at a large-hub or medium-hub
4 airport within the United States, management of large-
5 scale capital programs, and domestic and international
6 air service development;
- 7 (2) Shall be appointed by an affirmative vote of not less
8 than five members of the board;
- 9 (3) Shall be employed subject to a formal contract, the
10 terms of which shall be approved by the board;
11 provided that the terms shall include provisions for
12 the removal of the chief executive officer whether
13 with or without cause;
- 14 (4) May be removed from office only by a vote of not less
15 than five members of the board; provided that the
16 basis for removal is consistent with the terms of the
17 chief executive officer's employment contract;
- 18 (5) Shall have the powers as described in this chapter and
19 the provisions of chapters 102, 261, 261D, and 262
20 that are applicable to airports and aeronautical
21 facilities, as may be delegated by the board;



- 1 (6) Shall, except when excused by the board, attend all
2 meetings of the board, keep a record of the
3 proceedings, and maintain and be the custodian of the
4 official seal of the corporation and all books,
5 records, documents, and papers filed with the
6 corporation;
- 7 (7) Shall direct and supervise the corporation's
8 administrative and operational affairs in accordance
9 with the directives of the board;
- 10 (8) Shall approve all accounts for salaries and allowable
11 expenses of the corporation; and
- 12 (9) Shall do all things necessary, as directed by the
13 board, to carry out the powers and duties conferred
14 upon the corporation by this chapter and the
15 provisions of chapters 102, 261, 261D, and 262 that
16 are applicable to airports and aeronautical
17 facilities.
- 18 (i) Upon the vacancy of the position of the chief
19 executive officer, the board of directors shall designate a
20 deputy executive officer or other employee of the corporation to
21 serve as the chief executive officer of the corporation until



1 the vacancy is filled by the board. This interim chief
2 executive officer shall have all of the powers and
3 responsibilities, and receive the salary, of the chief executive
4 officer.

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

10 § -3 Powers; generally. (a) The Hawaii airports
11 corporation, by and through its board of directors:

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

19 (2) Shall provide as appropriate for the landing, taking-
20 off, and servicing of aircraft, and the loading and



- 1 unloading of passengers and cargo at all airports
2 under the control of the corporation;
- 3 (3) Shall establish performance targets and performance
4 standards for all state airports to achieve the
5 highest levels of customer service;
- 6 (4) Shall ensure that appropriate mission statements,
7 business plans, minimum development standards, and
8 strategic goals are established and that progress
9 towards their accomplishment is regularly assessed and
10 reported;
- 11 (5) Shall develop an organization and management structure
12 to best accomplish the goals of the Hawaii airport
13 system and the corporation;
- 14 (6) Shall be subject to the provisions of chapter 103D and
15 chapter 104; provided that any offeror of food and
16 beverage or retail concession services shall have an
17 agreement with any labor organization which represents
18 airport terminal concession employees in this State
19 that is valid and enforceable under title 29 United
20 States Code, section 185(a) and that prohibits any
21 strikes, picketing, or other economic interference



- 1 with the business of the offeror for the duration of
2 the offeror's contract to operate the concession,
3 including renewal or extension, and binds any
4 successors to an original offeror;
- 5 (7) Shall have an official seal and may alter the official
6 seal at its pleasure;
- 7 (8) May make, execute, or assume contracts, leases, and
8 all other instruments necessary or convenient for the
9 exercise of its powers and functions under this
10 chapter and the provisions of chapters 102, 261, 261D,
11 and 262 that are applicable to airports and
12 aeronautical facilities;
- 13 (9) Shall establish bylaws for its organization and
14 internal management;
- 15 (10) Shall adopt rules pursuant to chapter 91 as necessary
16 to implement this chapter and the provisions of
17 chapters 102, 261, 261D, and 262 that are applicable
18 to airports and aeronautical facilities;
- 19 (11) Shall prepare and adopt the corporation's operating
20 and capital improvement budgets;



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

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



- 1 (14) May accept and receive gifts or grants in any form
- 2 from any person, public entity, or source; provided
- 3 that the grants and gifts shall be used for airports
- 4 corporation purposes;
- 5 (15) Shall take all actions necessary under emergencies
- 6 declared by the governor;
- 7 (16) Shall assume from the department of transportation:
- 8 (A) That:
- 9 (i) Certain Certificate of the Director of
- 10 Transportation Providing for the Issuance of
- 11 State of Hawaii Airports System Revenue
- 12 Bonds dated as of May 1, 1969, relating to
- 13 certain revenue bonds and other obligations;
- 14 (ii) Certain Indenture of Trust dated as of
- 15 December 1, 2013, between the department of
- 16 transportation and U.S. Bank National
- 17 Association relating to certain certificates
- 18 of participation; and
- 19 (iii) Certain Indenture of Trust dated as of
- 20 August 1, 2014, between the department of
- 21 transportation and MUFG Union Bank, N.A.,



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

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

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

11 (18) Shall fix, impose, prescribe, and collect rates,
12 rentals, fees, or charges for the lease, use, and
13 services of its airport facilities at least sufficient
14 to pay the costs of operation, maintenance, and
15 repair, if any, and the required payments of the
16 principal of and interest on all bonds, notes, or
17 other obligations issued or assumed by the airports
18 corporation and reserves therefor; provided that the
19 rates, rentals, fees, or charges are established at an
20 open meeting subject to the requirements of chapter
21 92;



- 1 (19) Subject to the provisions of the documents assumed by
- 2 the corporation under paragraph (16)(A), may allot any
- 3 and all airport revenue and issue revenue bonds,
- 4 refunding revenue bonds, special facility revenue
- 5 bonds, bond anticipation notes, and other lawfully
- 6 authorized obligations of the State in its name and
- 7 secured by the revenue, or user taxes, or any
- 8 combination of both, of an undertaking or loan program
- 9 pursuant to chapter 39, but not in excess of the
- 10 principal amounts as are necessary for its purposes;
- 11 (20) May invest and secure its moneys;
- 12 (21) May exercise the power of eminent domain pursuant to
- 13 chapter 101 and in accordance with sections 261-31 to
- 14 261-36, to acquire real property for the corporation
- 15 with which to carry out this chapter and the
- 16 provisions of chapters 102, 261, 261D, or 262 that are
- 17 applicable to airports and aeronautical facilities;
- 18 (22) Shall establish and maintain an appropriate system of
- 19 accounts for the corporation; and
- 20 (23) May do any and all things necessary to exercise the
- 21 powers and perform the duties conferred upon the



1 corporation by this chapter and the provisions of
2 chapters 102, 261, 261D, and 262 that are applicable
3 to airports and aeronautical facilities.

4 (b) The corporation shall not be subject to chapters 36,
5 37, 37D, 38, and 40, except for section 36-28.5 and as otherwise
6 provided in this chapter and chapter 261.

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

20 The board of directors, upon the advice of its attorney,
21 may arbitrate, compromise, or settle any claim, action, or suit



1 brought against the airports corporation pursuant to this
2 section. Any claim compromised or settled under this subsection
3 shall be payable solely from the moneys and property of the
4 airports corporation and shall not constitute a general
5 obligation of the State or be secured directly or indirectly by
6 the full faith and credit of the State or the general credit of
7 the State or by any revenue or taxes of the State. Nothing in
8 this subsection shall preclude the board of directors from
9 requesting legislative appropriations to fund the settlement of
10 any claim or judgment against the airports corporation or its
11 officers, employees, or agents.

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

19 (d) The corporation shall be a "jurisdiction" and an
20 "appointing authority" under chapter 76 and an "appointing
21 authority" and an "appropriate authority" for those of its



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

19 (e) The corporation and its corporate existence shall
20 continue until terminated by law; provided that no termination
21 shall take effect as long as bonds or other obligations issued



1 or assumed by the corporation are outstanding, unless adequate
2 provision has been made for the payment or satisfaction thereof.
3 Upon termination of the existence of the corporation, all of the
4 rights and properties of the corporation then remaining shall
5 pass to and vest in the State in the manner prescribed by law.

6 **PART II. BUDGET AND FINANCE**

7 **§ -11 Exemptions.** The airport revenue fund, passenger
8 facility charge special fund, and rental motor vehicle customer
9 facility charge special fund shall be exempt from chapters 36,
10 37, 37D and 40.

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



1 (b) The corporation shall submit its biennium and
2 supplemental operating and capital improvement budget proposals
3 to the department of transportation, which shall transmit those
4 budget proposals to the governor.

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

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

16 **§ -13 Budget oversight.** The corporation's operating and
17 capital improvement budgets shall be subject to review or
18 approval by the governor or any agency of the executive branch,
19 except where state general funds are requested.

20 **§ -14 Accounts; depositories.** (a) Appropriations for
21 the corporation shall not be subject to any allotment system or



1 requirements. The director of finance shall notify the
2 corporation and comptroller that all of the appropriations for
3 the corporation for the fiscal year have been allotted and are
4 available for expenditure as soon as possible, and in no event
5 more than three business days, after the general or supplemental
6 appropriation act is effective.

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

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



1 **§ -16 Issuance of bonds.** On an annual basis, and upon
 2 request of the corporation, the legislature may authorize one
 3 lump sum for each means or source of funds for each of the
 4 following types of bonds to be issued by the corporation:
 5 revenue bonds, refunding revenue bonds, and special facility
 6 revenue bonds.

7 **§ -17 Audits.** The state auditor shall conduct
 8 management and financial audits of the corporation for fiscal
 9 year 2023 and every second year thereafter.

10 **§ -18 Rate-setting; methodology.** The corporation shall
 11 used the residual method when determining overall costs and
 12 assigning rates and charges."

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

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



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

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

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

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



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

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

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

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

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



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



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

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

17 "(c) Every attorney employed by any department on a full-

18 time basis, except an attorney employed by the public utilities

19 commission, the labor and industrial relations appeals board,

20 the Hawaii labor relations board, the office of Hawaiian

21 affairs, the Hawaii health systems corporation or its regional



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

8 SECTION 5. Section 36-27, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Except as provided in this section, and
11 notwithstanding any other law to the contrary, from time to
12 time, the director of finance, for the purpose of defraying the
13 prorated estimate of central service expenses of government in
14 relation to all special funds, except the:

- 15 (1) Special out-of-school time instructional program fund
- 16 under section 302A-1310;
- 17 (2) School cafeteria special funds of the department of
- 18 education;
- 19 (3) Special funds of the University of Hawaii;
- 20 (4) State educational facilities improvement special fund;



- 1 (5) Convention center enterprise special fund under
2 section 201B-8;
- 3 (6) Special funds established by section 206E-6;
- 4 (7) Aloha Tower fund created by section 206J-17;
- 5 (8) Funds of the employees' retirement system created by
6 section 88-109;
- 7 (9) Hawaii hurricane relief fund established under chapter
8 431P;
- 9 (10) Hawaii health systems corporation special funds and
10 the subaccounts of its regional system boards;
- 11 (11) Tourism special fund established under section
12 201B-11;
- 13 (12) Universal service fund established under section
14 269-42;
- 15 (13) Emergency and budget reserve fund under section
16 328L-3;
- 17 (14) Public schools special fees and charges fund under
18 section 302A-1130;
- 19 (15) Sport fish special fund under section 187A-9.5;
- 20 [†](16)[†]Neurotrauma special fund under section 321H-4;



- 1 [+] (17) [+] Glass advance disposal fee established by section
- 2 342G-82;
- 3 [+] (18) [+] Center for nursing special fund under section
- 4 304A-2163;
- 5 [+] (19) [+] Passenger facility charge special fund established by
- 6 section 261-5.5;
- 7 [+] (20) [+] Solicitation of funds for charitable purposes special
- 8 fund established by section 467B-15;
- 9 [+] (21) [+] Land conservation fund established by section 173A-5;
- 10 [+] (22) [+] Court interpreting services revolving fund under
- 11 section 607-1.5;
- 12 [+] (23) [+] Trauma system special fund under section 321-22.5;
- 13 [+] (24) [+] Hawaii cancer research special fund;
- 14 [+] (25) [+] Community health centers special fund;
- 15 [+] (26) [+] Emergency medical services special fund;
- 16 [+] (27) [+] Rental motor vehicle customer facility charge special
- 17 fund established under section 261-5.6;
- 18 [+] (28) [+] Shared services technology special fund under section
- 19 27-43;
- 20 [+] (29) [+] Automated victim information and notification system
- 21 special fund established under section 353-136;



1 [+] (30) [+] Deposit beverage container deposit special fund under
2 section 342G-104;

3 [+] (31) [+] Hospital sustainability program special fund under
4 [+] section 346G-4[+];

5 [+] (32) [+] Nursing facility sustainability program special fund
6 under [+] section 346F-4[+];

7 [+] (33) [+] Hawaii 3R's school improvement fund under section
8 302A-1502.4;

9 [+] (34) [+] After-school plus program revolving fund under section
10 302A-1149.5; [~~and~~]

11 [+] (35) [+] Civil monetary penalty special fund under section
12 321-30.2[~~7~~]; and

13 (36) Airport revenue fund,
14 shall deduct five per cent of all receipts of all other special
15 funds, which deduction shall be transferred to the general fund
16 of the State and become general realizations of the State. All
17 officers of the State and other persons having power to allocate
18 or disburse any special funds shall cooperate with the director
19 in effecting these transfers. To determine the proper revenue
20 base upon which the central service assessment is to be
21 calculated, the director shall adopt rules pursuant to chapter



1 91 for the purpose of suspending or limiting the application of
2 the central service assessment of any fund. No later than
3 twenty days prior to the convening of each regular session of
4 the legislature, the director shall report all central service
5 assessments made during the preceding fiscal year."

6 SECTION 6. Section 36-30, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) Each special fund, except the:

- 9 (1) Special out-of-school time instructional program fund
- 10 under section 302A-1310;
- 11 (2) School cafeteria special funds of the department of
- 12 education;
- 13 (3) Special funds of the University of Hawaii;
- 14 (4) State educational facilities improvement special fund;
- 15 (5) Special funds established by section 206E-6;
- 16 (6) Aloha Tower fund created by section 206J-17;
- 17 (7) Funds of the employees' retirement system created by
- 18 section 88-109;
- 19 (8) Hawaii hurricane relief fund established under chapter
- 20 431P;



- 1 (9) Convention center enterprise special fund established
- 2 under section 201B-8;
- 3 (10) Hawaii health systems corporation special funds and
- 4 the subaccounts of its regional system boards;
- 5 (11) Tourism special fund established under section
- 6 201B-11;
- 7 (12) Universal service fund established under section
- 8 269-42;
- 9 (13) Emergency and budget reserve fund under section
- 10 328L-3;
- 11 (14) Public schools special fees and charges fund under
- 12 section 302A-1130;
- 13 (15) Sport fish special fund under section 187A-9.5;
- 14 [+](16)[+]Neurotrauma special fund under section 321H-4;
- 15 [+](17)[+]Center for nursing special fund under section
- 16 304A-2163;
- 17 [+](18)[+]Passenger facility charge special fund established by
- 18 section 261-5.5;
- 19 [+](19)[+]Court interpreting services revolving fund under
- 20 section 607-1.5;
- 21 [+](20)[+]Trauma system special fund under section 321-22.5;



1 [+] (21) [+] Hawaii cancer research special fund;

2 [+] (22) [+] Community health centers special fund;

3 [+] (23) [+] Emergency medical services special fund;

4 [+] (24) [+] Rental motor vehicle customer facility charge special
5 fund established under section 261-5.6;

6 [+] (25) [+] Shared services technology special fund under section
7 27-43;

8 [+] (26) [+] Nursing facility sustainability program special fund
9 established pursuant to [+] section 346F-4[+];

10 [+] (27) [+] Automated victim information and notification system
11 special fund established under section 353-136;

12 [+] (28) [+] Hospital sustainability program special fund under
13 [+] section 346G-4[+]; ~~and~~

14 [] (29) [+] Civil monetary penalty special fund under section
15 321-30.2[-]; and

16 (30) Airport revenue fund,

17 shall be responsible for its pro rata share of the

18 administrative expenses incurred by the department responsible

19 for the operations supported by the special fund concerned."

20 SECTION 7. 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 8. 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 9. 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[~~7~~] and
4 harbors[~~7~~ ~~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 10. Section 84-17, Hawaii Revised Statutes, is
11 amended by amending subsection (d) to read as follows:

12 "(d) The financial disclosure statements of the following
13 persons shall be public records and available for inspection and
14 duplication:

15 (1) The governor, the lieutenant governor, the members of
16 the legislature, candidates for and delegates to the
17 constitutional convention, the trustees of the office
18 of Hawaiian affairs, and candidates for state elective
19 offices;

20 (2) The directors of the state departments and their
21 deputies, regardless of the titles by which the



1 foregoing persons are designated; provided that with
2 respect to the department of the attorney general, the
3 foregoing shall apply only to the attorney general and
4 the first deputy attorney general;

5 (3) The administrative director of the State;

6 (4) The president, the vice presidents, the assistant vice
7 presidents, the chancellors, members of the board of
8 regents, and the provosts of the University of Hawaii;

9 (5) The members of the board of education and the
10 superintendent, the deputy superintendent, the state
11 librarian, and the deputy state librarian of the
12 department of education;

13 (6) The administrative director and the deputy director of
14 the courts;

15 (7) The administrator and the assistant administrator of
16 the office of Hawaiian affairs; and

17 (8) The members of the following state boards,
18 commissions, and agencies:

19 (A) The board of directors of the agribusiness
20 development corporation established under section
21 163D-3;



- 1 (B) The board of agriculture established under
- 2 section 26-16;
- 3 (C) The state ethics commission established under
- 4 section 84-21;
- 5 (D) The Hawaii community development authority
- 6 established under section 206E-3;
- 7 (E) The Hawaiian homes commission established under
- 8 the Hawaiian Homes Commission Act of 1920, as
- 9 amended, and section 26-17;
- 10 (F) The board of directors of the Hawaii housing
- 11 finance and development corporation established
- 12 under section 201H-3;
- 13 (G) The board of land and natural resources
- 14 established under section 171-4;
- 15 (H) The state land use commission established under
- 16 section 205-1;
- 17 (I) The legacy land conservation commission
- 18 established under section 173A-2.4;
- 19 (J) The natural area reserves system commission
- 20 established under section 195-6;



- 1 (K) The board of directors of the natural energy
- 2 laboratory of Hawaii authority established under
- 3 section 227D-2;
- 4 (L) The board of directors of the Hawaii public
- 5 housing authority established under section
- 6 356D-3;
- 7 (M) The public utilities commission established under
- 8 section 269-2; [~~and~~]
- 9 (N) The commission on water resource management
- 10 established under section 174C-7[-];
- 11 (O) The board and CEO of the Hawaii airports
- 12 corporation established under section -2."

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

16 "Appropriate authority" means the governor, the respective
 17 mayors, the chief justice of the supreme court, the board of
 18 education, the board of regents, the state public charter school
 19 commission, the Hawaii health systems corporation board, the
 20 auditor, the ombudsman, the board of directors of the Hawaii
 21 airports corporation, and the director of the legislative



1 reference bureau. These individuals or boards may make
2 adjustments for their respective excluded employees."

3 SECTION 12. Section 103D-102, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

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

7 (1) Any regional system board of the Hawaii health systems
8 corporation; [~~o~~]

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

11 (3) The Hawaii airports corporation; provided that the
12 airports corporation adopts rules that meet the
13 requirements of section -3."

14 SECTION 13. 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 technology development
2 corporation in its corporate capacity holds title;
3 [and]

4 (12) Lands to which the department of education holds
5 title; and

6 (13) Lands to which the Hawaii airports corporation 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[-]; provided further that lands
13 to which the Hawaii airports corporation holds title shall be
14 considered "public lands" for the purpose of accounting of all
15 receipts from lands that are described in section 5(f) of the
16 Admission Act, Public Law 86-3, for the prior fiscal year,
17 pursuant to section 5 of Act 178, Session Laws of Hawaii 2006."

18 SECTION 14. Section 261-1, Hawaii Revised Statutes, is
19 amended by adding two new definitions to be appropriately
20 inserted and to read as follows:



1 "Chief executive officer" means the chief executive
2 officer of the Hawaii airports corporation.

3 "Corporation" means the Hawaii airports corporation."

4 SECTION 15. Section 261-7, Hawaii Revised Statutes, is
5 amended by amending subsection (e) to read as follows:

6 "(e) [~~The department may fix and regulate, from time to~~
7 ~~time, reasonable landing fees for aircraft, including the~~
8 ~~imposition of landing surcharges or differential landing fees,~~
9 ~~and other reasonable charges for the use and enjoyment of the~~
10 ~~airports and the services and facilities furnished by the~~
11 ~~department in connection therewith, including the establishment~~
12 ~~of a statewide system of airports landing fees, a statewide~~
13 ~~system of airports support charges, and joint use charges for~~
14 ~~the use of space shared by users, which fees and charges may~~
15 ~~vary among different classes of users such as foreign carriers,~~
16 ~~domestic carriers, inter island carriers, air taxi operators,~~
17 ~~helicopters, and such other classes as may be determined by the~~
18 ~~director, for the purpose of meeting the expenditures of the~~
19 ~~statewide system of airports set forth in section 261-5(a),~~
20 ~~which includes expenditures for capital improvement projects~~
21 ~~approved by the legislature.] The corporation shall fix, impose,~~



1 prescribe, and collect rates, rentals, fees, or charges for the
2 lease, use, and services of its airport facilities in amounts
3 sufficient to pay the costs of the operation, maintenance, and
4 repair, if any, and the required payments of the principal of,
5 and interest on, all bonds issued or assumed by the corporation
6 and reserves therefor.

7 In setting airports rates and charges, including landing
8 fees, the [~~director~~] chief executive officer may enter into
9 contracts, leases, licenses, and other agreements with
10 aeronautical users of the statewide system of airports
11 containing such terms, conditions, and provisions as the
12 [~~director~~] chief executive officer deems advisable.

13 If the [~~director~~] chief executive officer has not entered
14 into contracts, leases, licenses, and other agreements with any
15 or fewer than all of the aeronautical users of the statewide
16 system of airports prior to the expiration of an existing
17 contract, lease, license, or agreement, the [~~director~~] chief
18 executive officer shall set and impose rates, rentals, fees, and
19 charges pursuant to this subsection without regard to the
20 requirements of chapter 91; provided that a public informational
21 hearing shall be held on the rates, rentals, fees, and charges.



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

12 The [~~director~~] chief executive officer may develop and
13 formulate methodology in setting the various rates, rentals,
14 fees, and charges imposed and may determine usage of space,
15 estimate landed weights, and apply [~~such~~] the portion of
16 nonaeronautical revenue deemed appropriate in determining the
17 rates, rentals, fees, and charges applicable to aeronautical
18 users of the statewide system of airports.

19 The rates, rentals, fees, and charges determined by the
20 [~~director~~] chief executive officer in the manner set forth in
21 this subsection shall be those charges payable by the



1 aeronautical users for the periods immediately following the
2 date of expiration of the existing contract, lease, license, or
3 agreement. If fees are established pursuant to this section,
4 the [~~department~~] corporation shall prepare a detailed report on
5 the circumstances and rates and charges that have been
6 established, and shall submit the report to the legislature no
7 later than twenty days prior to the convening of the next
8 regular session.

9 If a schedule of rates, rentals, fees, and charges
10 developed by the [~~director~~] chief executive officer in
11 accordance with this section is projected by the [~~department~~]
12 corporation to produce revenues [~~which,~~] that, together with
13 aviation fuel taxes, will be in excess of the amount required to
14 meet the expenditures of the statewide system of airports set
15 forth in section 261-5(a), including expenditures for capital
16 improvement projects approved by the legislature, and to comply
17 with covenants and agreements with holders of airport revenue
18 bonds, the [~~department~~] corporation shall submit the schedule of
19 rates, rentals, fees, and charges to the legislature prior to
20 the convening of the next regular session of the legislature.
21 Within forty-five days after the convening of the regular



1 session, the legislature may disapprove any schedule of rates,
 2 rentals, fees, and charges required to be submitted to it by
 3 this section by concurrent resolution. If no action is taken by
 4 the legislature within the forty-five-day period the schedule of
 5 rates, rentals, fees, and charges shall be deemed approved. If
 6 the legislature disapproves the schedule within the forty-five-
 7 day period, the [~~director~~] chief executive officer shall develop
 8 a new schedule of rates, rentals, fees, and charges in
 9 accordance with this section within seventy-five days of the
 10 disapproval. Pending the development of a new schedule of
 11 rates, rentals, fees, and charges, the schedule submitted to the
 12 legislature shall remain in force and effect.

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

- 17 (1) The governor declares a state of emergency; and
- 18 (2) The [~~department~~] corporation determines that the
- 19 waiver of landing fees and other charges for the
- 20 aircraft is consistent with assisting in the delivery



1 of humanitarian relief to disaster-stricken areas of
2 the State."

3 SECTION 16. Section 262-1, Hawaii Revised Statutes, is
4 amended by adding two new definitions to be appropriately
5 inserted and to read as follows:

6 "Chief executive officer" means the chief executive
7 officer of the Hawaii airports corporation.

8 "Corporation" means the Hawaii airports corporation."

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



1 After the transfer completion date but no later than when the
2 subsequent supplements to the Hawaii Revised Statutes are
3 prepared, the revisor of statutes shall make appropriate
4 changes, including, without limitation:

5 (1) Substituting the phrase "chief executive officer" for
6 the terms "director" or "director of transportation",
7 the term "Hawaii airports corporation" for the term
8 "department of transportation", and the term
9 "corporation" for the term "department";

10 (2) Deleting the definition of "director", in chapters 261
11 and 262, Hawaii Revised Statutes; and

12 (3) Deleting the definition of "department" in sections
13 261-1 and 262-1, Hawaii Revised Statutes.

14 SECTION 18. The Hawaii airports corporation shall succeed
15 to the jurisdiction, powers, and responsibilities of the
16 department of transportation over aeronautics and airports,
17 including all of the functions relating to airports and
18 aeronautics performed by the department and its airports
19 division, on the transfer completion date published by the
20 Hawaii airports corporation pursuant to section 19(b) of this
21 Act, which date shall be no later than December 31, 2022.



1 On the transfer completion date, the airports corporation
2 shall assume from the department of transportation:

3 (1) That:

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

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

14 (C) Certain Indenture of Trust dated as of August 1,
15 2014, between the department of transportation
16 and MUFG Union Bank, N.A., relating to certain
17 customer facility charge revenue bonds, each as
18 supplemented and amended to date; and

19 (2) The bonds, notes, and other obligations of the
20 department of transportation outstanding under, as



1 well as the covenants, restrictions, and other
2 requirements set forth in, those documents.

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

9 SECTION 19. (a) Within ninety days of the effective date
10 of this Act, the governor shall designate a representative who
11 shall facilitate the corporation's orderly succession to the
12 jurisdiction, powers, functions, rights, benefits, obligations,
13 assets, liabilities, funds, accounts, contracts, and all other
14 things currently held, used, incurred, or performed by the
15 department of transportation, its director and staff, and its
16 airports division, in administering and exercising the authority
17 and fulfilling the responsibilities authorized or conferred upon
18 the department of transportation and the director of
19 transportation, by chapters 102, 261, 261D, and 262, Hawaii
20 Revised Statutes.



1 Within one hundred eighty days of the effective date of
2 this Act, the governor shall appoint the members of the board of
3 directors of the Hawaii airports corporation.

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

- 13 (1) Provide administrative support services for the
14 corporation pending the transfer of employees from the
15 department of transportation to the Hawaii airports
16 corporation pursuant to section 23 of this Act;
- 17 (2) Develop a policy and set of robust procurement
18 procedures that foster accountability, transparency
19 and oversight of contracts, to include compliance with
20 federal procurement requirements;



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



1 department of transportation, and other state
2 agencies;

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

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



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

3 (7) Assign and transfer:

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

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

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



1 adoption of policies and procedures designed to
2 ensure continuing compliance with the terms
3 thereof for so long as they are applicable; and
4 (8) Reimburse each cooperating department or agency for
5 the cost of services provided under the memorandum of
6 understanding.
7 (b) As soon as feasible, the Hawaii airports corporation,
8 with the concurrence of the director of transportation and the
9 governor, shall establish the transfer completion date, which
10 shall be no later than December 31, 2022, and publish notice of
11 the transfer completion date by:
12 (1) Publishing the notice in a daily publication of
13 statewide circulation pursuant to section 1-28.5,
14 Hawaii Revised Statutes;
15 (2) Posting a copy of the notice on an electronic calendar
16 on a website maintained by the State;
17 (3) Providing a copy of the notice to the department of
18 transportation, the Secretaries of the United States
19 Department of Transportation and Department of
20 Defense, the head of the Federal Aviation



1 Administration, and the head of every other state
2 department; and

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

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

7 SECTION 20. It is the intent of this Act not to jeopardize
8 the receipt of any federal aid nor to impair any existing
9 federal income tax exemption to, security interest of, or
10 obligation of the State or any agency thereof to the holders of
11 any bonds or other obligations issued by the State or by any
12 department or agency of the State, and to the extent, and only
13 to the extent necessary to effectuate this intent, the governor
14 may modify the strict provisions of this Act, but shall promptly
15 report any modification with reasons therefor to the legislature
16 at its next session thereafter for review by the legislature.

17 SECTION 21. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date.

20 The department of transportation shall be responsible for
21 any and all obligations incurred by the department or its



1 airports division in connection with the department's exercise
2 of the authority and performance of the duties and
3 responsibilities conferred upon it and its director by chapters
4 102, 261, 261D, and 262, Hawaii Revised Statutes, until the time
5 that the obligations, including any accounts payable, accrued
6 paid time off, debt, capital leases, and other obligations
7 incurred before the transfer completion date, have been assumed
8 by the Hawaii airports corporation, which shall not occur prior
9 to the transfer completion date. All collective bargaining
10 disputes or claims against the department of transportation
11 grounded in an act or omission, or an event that occurred prior
12 to the transfer completion date shall remain the responsibility
13 of the department of transportation. All liabilities arising
14 out of the Hawaii airports corporation's exercise of the
15 authority and performance of the duties and responsibilities
16 conferred upon it and its chief executive officer by chapters
17 102, 261, 261D, and 262, Hawaii Revised Statutes, after the
18 transfer completion date shall be the responsibility of the
19 Hawaii airports corporation. The assumption by the Hawaii
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 22. 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 Hawaii
10 airports corporation on the transfer completion date and the
11 holders of the bonds, notes, or other obligations of the
12 airports corporation issued pursuant to chapters 37D or 39,
13 Hawaii Revised Statutes, that the State shall not limit or alter
14 the rights and powers vested in the Hawaii airports corporation
15 so as to impair the terms of any contract made or assumed by the
16 airports corporation with holders or in any way impair the
17 rights and remedies of holders until bonds, notes, or other
18 obligations, together with interest thereon, with interest on
19 any unpaid installments of interest, and all costs and expenses
20 in 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 Hawaii airports corporation on the transfer
 4 completion date and the holders of the bonds, notes, or other
 5 obligations of the airports corporation issued pursuant to
 6 chapter 37D or 39, Hawaii Revised Statutes, that the State shall
 7 not limit or alter the basis on which the revenues or user taxes
 8 securing any such bonds, notes, or other obligations issued or
 9 assumed by the airports corporation are to be received by the
 10 airports corporation, or the rights of the airports corporation
 11 to the use of the funds, so as to impair the terms of any
 12 contract securing the same. The Hawaii airports corporation is
 13 authorized to include these pledges and agreements of the State
 14 in any contract with the holders of bonds, notes, or other
 15 obligations issued pursuant to chapter 37D or 39, Hawaii Revised
 16 Statutes.

17 SECTION 23. The Hawaii airports corporation shall
 18 recognize all bargaining units and collective bargaining
 19 agreements existing at the time of transfer to the corporation.
 20 All employees who are subject to chapter 76, Hawaii Revised
 21 Statutes, and occupy civil service positions and whose functions



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

12 Any employee who, prior to this Act, is a member of a
 13 bargaining unit, shall remain in that bargaining unit when
 14 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 Hawaii airports corporation as
 17 a consequence of this Act may retain the employee's exempt
 18 status, but shall not be appointed to a civil service position
 19 as a consequence of this Act. An exempt employee who is
 20 transferred by this Act shall not suffer any loss of prior
 21 service credit, vacation or sick leave credits previously



1 earned, or other employee benefits or privileges as a
2 consequence of this Act. The chief executive officer of the
3 Hawaii airports corporation may prescribe the duties and
4 qualifications of these employees and fix their salaries without
5 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 The department of transportation and the Hawaii airport
10 corporation shall require every employer doing business at the
11 airports pursuant to a concession contract or subcontract
12 entered into with the airport corporation after the effective
13 date of this section to retain as its employees for a minimum
14 period of 120 days, during which they may be terminated only for
15 cause, workers who are employed by the previous concessionaire
16 or who were employed at the end of that concessionaire's
17 contract and who have been displaced. The employer shall retain
18 such workers in the same equivalent job classifications as they
19 held under the previous concessionaire and if more workers are
20 eligible for retention than there are positions in the new or
21 expanded concession, the employer shall give such workers



1 preference for future employment in order of their seniority, as
2 determined by their total length of service at the airports
3 under one or more concessionaires.

4 SECTION 24. On or no more than ninety days after the
5 transfer completion date, all appropriations, records,
6 equipment, machines, files, supplies, contracts, books, papers,
7 documents, maps, and other personal property heretofore made,
8 used, acquired, or held by the department of transportation
9 relating to the functions transferred to the Hawaii airports
10 corporation shall be transferred with the functions to which
11 they relate.

12 SECTION 25. All rules, policies, procedures, guidelines,
13 and other material adopted or developed by the department of
14 transportation to implement provisions of the Hawaii Revised
15 Statutes that are reenacted or made applicable to the Hawaii
16 airports corporation by this Act shall remain in full force and
17 effect on and after the transfer completion date established
18 pursuant to section 19(b) of this Act, until amended or repealed
19 by the Hawaii airports corporation pursuant to chapter 91,
20 Hawaii Revised Statutes. In the interim, every reference to the
21 department of transportation or director of transportation in



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

5 SECTION 26. All deeds, executive orders, leases,
6 contracts, loans, agreements, permits, or other documents
7 executed or entered into by or on behalf of the department of
8 transportation, pursuant to the provisions of the Hawaii Revised
9 Statutes, that are reenacted or made applicable to the Hawaii
10 airports corporation by this Act shall remain in full force and
11 effect. On the transfer completion date established pursuant to
12 section 19(b) of this Act, every reference to the department of
13 transportation in those deeds, executive orders, leases,
14 contracts, loans, agreements, permits or other documents shall
15 be construed as a reference to the Hawaii airports corporation
16 or the board of directors of the airports corporation.

17 SECTION 27. There is appropriated out of the airport
18 revenue fund the sum of \$3,000,000 or so much thereof as may be
19 necessary for fiscal year 2019-2020, to effect the transfer of
20 functions from the department of transportation to the Hawaii
21 airports corporation required by this Act.



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

3 SECTION 28. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 29. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 30. This Act shall take effect on July 1, 2050;
12 provided that section 15 of this Act shall take effect upon the
13 satisfaction and discharge of:

- 14 (1) That certain Certificate of the Director of
15 Transportation Providing for the Issuance of the State
16 of Hawaii Airports System Revenue Bonds dated as of
17 May 1, 1969;



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



Report Title:

Transportation; Hawaii Airports Corporation; Establishment;
Appropriation

Description:

Authorizes establishment of the Hawaii Airports Corporation (HAC) within the Department of Transportation for administrative purposes. Sets out appointment of members to the board of directors and powers and duties of HAC. Transfers aeronautics functions of the Department of Transportation to HAC. Makes HAC subject to Hawaii procurement code. Requires HAC to set rates and determine costs based on the residual method. Subjects HAC board and CEO to financial disclosure requirements. Appropriates funds. (SB666 HD1)

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

