

JAN 27 2016

A BILL FOR AN ACT

RELATING TO A PORT AUTHORITY.

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

1 SECTION 1. The legislature finds that Hawaii's sea and air
2 transportation planning, management, and development functions
3 are currently spread out among a number of agencies, including
4 the department of transportation's harbors and airports
5 divisions and the department of land and natural resources'
6 boating and ocean recreation program, as well as the department
7 of health with respect to environmental concerns, and the office
8 of Hawaiian affairs when ceded lands issues arise.

9 This multijurisdictional situation has resulted in
10 inefficiencies and conflicts that are difficult to resolve
11 between agencies. In addition, this situation sometimes leads
12 to conflicting plans of action among the different agencies
13 seeking to implement differing goals.

14 The economic well-being of the State depends in part on the
15 efficient use of all of its air and sea transportation
16 resources, which will enhance and complement efforts to improve
17 Hawaii's economy. The legislature believes that coordinated



1 planning and development of sea and air transportation would be
2 implemented more effectively by a single entity having overall
3 consolidated jurisdiction.

4 Nearly a decade ago, in response to Senate Concurrent
5 Resolution No. 214, H.D. 1 (1996), the governor convened the
6 Hawaii maritime industry policy advisory task force within the
7 office of the governor to examine several issues including
8 "establishing a port authority to implement and administer
9 maritime policy under the port authority." Subsequently, the
10 task force submitted to the legislature its report that
11 determined that the advantages of establishing a port authority
12 outweighed the disadvantages of doing so. The advantages of
13 establishing a port authority include:

- 14 (1) Providing an institutional mechanism to promote
15 efficient allocation of waterfront resources;
- 16 (2) Focusing control and responsibility for waterfront
17 resources within a single entity, thereby eliminating
18 multi-agency oversight and jurisdiction;
- 19 (3) Providing an appropriate forum for all affected
20 interests;



- 1 (4) Increasing efficiency in land utilization and related
- 2 lease processes;
- 3 (5) Streamlining administrative processes;
- 4 (6) Making possible more responsive planning;
- 5 (7) Increasing financial flexibility; and
- 6 (8) Increasing responsiveness to customer needs and
- 7 economic demands.

8 In addition to the findings of the 1996 task force, the
9 legislature finds that the establishment of a port authority
10 will assist in the following important statewide objectives:

- 11 (1) Increase security for the state. The legislature
- 12 finds that coordination of all state security
- 13 interests for airports and harbors at entry-points
- 14 into the state is in the best interest of the state;
- 15 (2) Improve the management of and increase funding for
- 16 state harbors. A port authority will improve not only
- 17 the management of the State's harbors, but will allow
- 18 the State to combine the resources of both the
- 19 airports and harbors divisions of the department of
- 20 transportation, thereby allowing the State to issue



- 1 larger bonds to raise more money for the improvement
2 of harbor infrastructure;
- 3 (3) Improve administrative efficiency. As noted by the
4 1996 task force, consolidating air and sea
5 transportation functions in a single entity will help
6 to streamline administrative processes, thereby making
7 possible more responsive planning, increasing
8 financial flexibility, and increasing responsiveness
9 to customer needs and economic demands;
- 10 (4) Coordinate environmental issues affecting the airports
11 and harbors, particularly relating to alien invasive
12 species. A port authority will be able to oversee
13 everything that enters the state by air or sea,
14 thereby allowing that entity to serve as the agency
15 responsible for comprehensive alien invasive species
16 protection and control; and
- 17 (5) Increase economic opportunities to the state,
18 particularly relating to the cruise ship industry.
19 The establishment of a port authority will enable the
20 State to develop improved infrastructure and issue
21 bonds to assist cruise ships and other industries that



1 form a logical nexus to the sea and air transportation
2 sectors.

3 The legislature finds that the rational allocation and
4 administration of scarce and increasingly valuable waterfront
5 and airport resources through the establishment of a port
6 authority is vital for the well-being of the people and the
7 economy of the state.

8 Accordingly, the purpose of this Act is to establish a
9 three-year Hawaii port authority pilot project, an independent
10 public entity to set statewide policy on all matters relating to
11 harbors and airports in Hawaii, and to transfer the functions,
12 duties, and powers exercised by the department of transportation
13 over commercial harbors and airports to the Hawaii port
14 authority.

15 It is the intent of the legislature that the functions,
16 duties, and staff of the departments and agencies currently
17 charged with the responsibilities to be administered by the port
18 authority will be eventually transferred to a permanent agency.

19 SECTION 2. (a) The department of budget and finance shall
20 established a three-year pilot project to be known as the Hawaii
21 port authority to serve as an independent public entity to set



1 statewide policy on all matters relating to harbors and airports
2 in Hawaii.

3 (b) As used in this Act, unless the context indicates
4 otherwise:

5 "Administrator" means the administrator of the port
6 authority.

7 "Airport" means any area of land or water that is used, or
8 intended for use, for the landing and taking-off of aircraft,
9 and any appurtenant areas that are used, or intended for use,
10 for airport buildings or other airport facilities or rights-of-
11 way, including approaches, together with all airport buildings
12 and facilities located thereon.

13 "Commercial harbor" means a harbor or offshore mooring
14 facility that is intended primarily for the movement of
15 commercial cargo, and passenger and fishing vessels entering,
16 leaving, or traveling within the state, and facilities and
17 supporting services for the loading, off-loading, and handling
18 of cargo, passengers, and vessels.

19 "Port authority" means the Hawaii port authority.

20 (c) The Hawaii port authority, shall be a body corporate
21 and a special political subdivision of the State for the



1 purposes of this Act. The port authority shall be placed within
2 the department of budget and finance for administrative purposes
3 only.

4 (d) The port authority shall consist of seven voting
5 members. The administrator shall be an ex-officio voting member
6 of the port authority. Two members shall be appointed by the
7 governor pursuant to section 26-34, Hawaii Revised Statutes,
8 except as specifically provided to the contrary in this section.
9 Two members shall be appointed by the governor from a list of
10 names provided by the president of the senate; and
11 two members shall be appointed by the governor from a list of
12 names provided by the speaker of the house of
13 representatives; provided that:

14 (1) Those members appointed by the governor from lists
15 provided by the president of the senate and the
16 speaker of the house of representatives shall be
17 selected from lists of prospective appointees
18 recommended by the county councils;

19 (2) The governor shall stagger the terms of the members
20 appointed from lists provided by the president of the
21 senate and the speaker of the house of representatives



1 so that there will always be one member from each
2 county in office at all times; and

3 (3) Appointment of the members by the governor from lists
4 provided by the senate and the house of
5 representatives shall be exempt from confirmation by
6 senate.

7 (e) All members, except for the administrator, shall
8 continue in office until their respective successors have been
9 appointed and, if required, confirmed by the senate. The port
10 authority shall establish bylaws providing for the automatic
11 succession of a deputy administrator to the vacant post of
12 administrator on an interim basis and until a permanent
13 administrator is appointed. Except as provided in this Act, no
14 member appointed under this section shall be an officer or
15 employee of the State or the counties.

16 (f) The port authority shall be headed by a single
17 executive to be known as the administrator of the port
18 authority.

19 (g) The administrator:

20 (1) Shall report directly to the governor;



- 1 (2) Shall be appointed by the vote of not less than four
2 members of the port authority, excluding the
3 administrator;
- 4 (3) Shall be a voting member of the port authority;
- 5 (4) May be removed from office by a vote of not less than
6 four members of the port authority, excluding the
7 administrator;
- 8 (5) Shall have the powers described in this Act and as may
9 be delegated by the port authority;
- 10 (6) Shall appoint, with the majority consent of the
11 members voting thereon, a division chief for the port
12 authority's airport responsibilities and a division
13 chief for the port authority's harbor
14 responsibilities;
- 15 (7) May appoint, with the majority consent of the members
16 voting thereon, deputy administrators as the
17 administrator deems appropriate; and
- 18 (8) May hire staff and employees to fill positions that
19 may be provided for in the port authority's annual
20 budget.



1 (h) Each division chief shall exercise and discharge the
2 division chief's respective responsibilities, whether or not in
3 the administrator's presence, and shall not exercise the
4 responsibilities of the other division chief. Each division
5 chief shall report to, and be under the supervision of, the
6 administrator.

7 (i) Each deputy administrator shall exercise those powers
8 that may be delegated by the administrator, whether or not in
9 the administrator's presence.

10 (j) The functions, duties, and compensation of all
11 positions, and the discharge of any staff or employee hired by
12 the administrator, shall be provided for in the bylaws of the
13 port authority.

14 (k) All employees of the port authority shall be exempt
15 from chapter 76, Hawaii Revised Statutes.

16 (1) Except as otherwise provided in this Act, the port
17 authority:

18 (1) Shall exercise power and control over airports, air
19 navigation facilities, buildings, and other facilities
20 belonging to, or controlled by, the port authority to
21 provide for:



- 1 (A) The landing, taking-off, and servicing of
- 2 aircraft, and the loading and unloading of
- 3 passengers and cargo;
- 4 (B) The comfort, accommodation, and convenience of
- 5 air travelers; and
- 6 (C) Any matter related to the foregoing;
- 7 (2) Shall exercise power and control over all commercial
- 8 harbors and roadsteads, and commercial harbor and
- 9 waterfront improvements belonging to, or controlled
- 10 by, the port authority, all vessels and shipping
- 11 within the commercial harbors and roadsteads, and any
- 12 matter related to the foregoing;
- 13 (3) Shall exercise power and control over ferries as it
- 14 may deem proper in carrying out its duties concerning
- 15 water transportation in the State;
- 16 (4) Shall:
- 17 (A) Exercise general supervision over aeronautics
- 18 within the State and, in connection therewith,
- 19 encourage, foster, and assist in the development
- 20 of aeronautics in the State, and encourage the



- 1 establishment of airports and air navigation
2 facilities;
- 3 (B) Cooperate with and assist the federal government
4 and other persons in the development of
5 aeronautics; and
- 6 (C) Seek to coordinate the aeronautical activities of
7 the State with those activities of the federal
8 government;
- 9 (5) May use the facilities and services of any department,
10 board, commission, or agency of the State or counties;
- 11 (6) May sue and be sued;
- 12 (7) Shall have a seal and may alter the seal at its
13 pleasure;
- 14 (8) May make and execute contracts and all other
15 instruments necessary or convenient for the exercise
16 of its powers and functions under this Act;
- 17 (9) Shall establish bylaws for its organization and
18 internal management;
- 19 (10) Shall establish bylaws for the adoption of rules and
20 shall adopt rules, through the administrator, to
21 effectuate this Act;



- 1 (11) Shall adopt an annual budget for its operations and
2 maintenance program and its capital facilities
3 program;
- 4 (12) Shall appoint officers, agents, and employees through
5 the administrator, prescribe their duties and
6 qualifications, and fix their salaries;
- 7 (13) May own, sell, lease, hold, clear, improve, and
8 rehabilitate real, personal, or mixed property, and
9 assign, exchange, transfer, convey, lease, sublease,
10 or encumber any airport or commercial harbor, or any
11 project, improvement, or facility related thereto;
- 12 (14) Shall develop, construct, reconstruct, rehabilitate,
13 improve, alter, or repair, or provide for the
14 development, construction, reconstruction,
15 rehabilitation, improvement, alteration, or repair of,
16 any airport or commercial harbor, or any project,
17 improvement, or facility related thereto, and
18 designate a qualified person as its agent for that
19 purpose; and own, hold, assign, transfer, convey,
20 exchange, lease, sublease, or encumber any airport or



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- 1 commercial harbor or any project, improvement, or
2 facility related thereto;
- 3 (15) Shall arrange or initiate appropriate action for the
4 planning, replanning, opening, grading, relocating, or
5 closing of streets, roads, roadways, alleys,
6 easements, piers, or other places; the furnishing of
7 facilities; the acquisition of property or property
8 rights; and the furnishing of property, development
9 rights, or services in connection with any airport or
10 commercial harbor, or any project, improvement, or
11 facility related thereto;
- 12 (16) May grant options or renew any lease entered into by
13 it in connection with any project, on terms and
14 conditions as it deems advisable;
- 15 (17) May provide advisory, consultative, training, and
16 educational services; technical assistance; and
17 advice, to any person, either public or private, to
18 carry out the purposes of this Act, and engage the
19 services of consultants on a contractual basis for
20 rendering professional and technical assistance and
21 advice;



- 1 (18) Shall procure insurance against any loss in connection
2 with its property and other assets and operations, in
3 such amounts and from such insurers as it deems
4 desirable, or provide for self-insurance;
- 5 (19) 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 port
8 authority purposes;
- 9 (20) May pledge or assign all or any part of the moneys,
10 fees, rents, charges, or other revenues and proceeds
11 derived by the port authority from the proceeds of
12 insurance or condemnation awards for the loss of
13 revenues or incurring of costs and expenses because of
14 any action taken by the port authority;
- 15 (21) Shall impose, prescribe, and collect rates, rentals,
16 fees, or charges for the lease, use, and services of
17 its airport and commercial harbor facilities at least
18 sufficient to pay the costs of operation, maintenance,
19 and repair, if any, and the required payments of the
20 principal of, and interest on, all bonds issued or
21 assumed by the port authority and reserves therefor;



- 1 (22) May engage in economic development programs and
2 contract with the department of business, economic
3 development, and tourism or nonprofit corporations in
4 the furtherance of economic development;
- 5 (23) May take all actions necessary under emergencies such
6 as hurricanes, tsunamis, and other natural disasters;
- 7 (24) Shall plan, construct, operate, and maintain all
8 commercial harbor and airport facilities in the state,
9 including, but not limited to, the acquisition and use
10 of lands necessary to stockpile dredged spoils without
11 the approval of county agencies, notwithstanding any
12 other law to the contrary;
- 13 (25) May issue revenue bonds and special facility revenue
14 bonds in its name pursuant to chapter 39 without
15 limitations, but not in excess of such principal
16 amounts as are necessary for its purposes or specified
17 in covenants with bondholders;
- 18 (26) May invest and secure its moneys in accordance with
19 chapters 36 and 38, Hawaii Revised Statutes;
- 20 (27) May take public and private property for use in
21 furthering any of the purposes of the port authority



1 or as otherwise provided by law; provided that all
2 proceedings for condemnation shall be conducted in
3 accordance with chapter 101, Hawaii Revised Statutes;

4 (28) May provide compensation, allowance, or other
5 assistance to any person for relocation or
6 displacement caused by the acquisition of land for
7 airport or commercial harbor purposes;

8 (29) May hire or contract law enforcement personnel,
9 notwithstanding any other law to the contrary;

10 (30) May use funds appropriated to the port authority to
11 fund services on a seven days a week basis regardless
12 of any appropriation stating otherwise; and

13 (31) May do any and all things necessary to carry out its
14 purposes and exercise the powers given to it in this
15 Act.

16 (m) The port authority shall cease to exist on June 30,
17 2019.

18 SECTION 3. Jurisdiction over aeronautics, airports,
19 harbors, and maritime functions, including airport functions
20 under the department of transportation's airports division,
21 harbor and maritime functions under the department of



1 transportation's harbors division, and the department of land
2 and natural resources' boating and ocean recreation program,
3 shall be transferred to the port authority on July 1, 2018.

4 SECTION 4. At least twenty days prior to the convening of
5 the regular session of 2017, the department of transportation
6 shall submit to the legislature a report recommending statutes
7 that must be amended to implement the port authority pilot
8 project under this Act.

9 SECTION 5. At least twenty days prior to the convening of
10 the regular sessions of 2018 and 2019, the department of budget
11 and finance shall submit a report to the legislature on the
12 status of implementing the Hawaii port authority pilot project.
13 The 2019 report shall also contain a recommendation on whether
14 the pilot project should be made permanent.

15 SECTION 6. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so much
17 thereof as may be necessary for fiscal year 2016-2017 for
18 implementation and operation of the Hawaii port authority pilot
19 project on a seven days a week basis.

20 The sum appropriated shall be expended by the department of
21 budget and finance for the purposes of this Act.



1 SECTION 7. It is the legislature's intent that this Act
2 not jeopardize the receipt of any federal aid nor impair the
3 obligation of the State or any agency thereof to the holders of
4 any bond issued by the State or by any such agency, and to the
5 extent, and only to the extent, necessary to effectuate this
6 intent, the governor may modify the strict provisions of this
7 Act, but shall promptly report any such modification with
8 reasons therefor to the legislature at its next session
9 thereafter for review by the legislature.

10 SECTION 8. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun, before its effective date.

13 SECTION 9. This Act shall be liberally construed to
14 accomplish the purposes set forth herein. If any provision of
15 this Act, or the application thereof to any person or
16 circumstance, is held invalid, the invalidity shall not affect
17 the other provisions or applications of this Act that can be
18 given effect without the invalid provision or application, and
19 to this end the provisions of this Act are severable.



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1 SECTION 10. This Act shall take effect July 1, 2016, and
2 shall be repealed on June 30, 2019.
3

INTRODUCED BY:

[Handwritten Signature]

Randy H. Baker

Michelle Kitani

Lawrence Q. Brown



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Report Title:

Port Authority; Establishment; Appropriation

Description:

Establishes a three-year Hawaii Port Authority pilot project. Empowers the Authority to administer a statewide system of harbors and airports. Appropriates moneys for the pilot project.

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