

JAN 24 2018

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# 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, and  
12 office of Hawaiian affairs with respect to ceded land issues,  
13 among others. Distributed responsibility and involvement by  
14 multiple agencies, which sometimes have conflicting goals and  
15 priorities, results in inefficiency, delayed decision-making,  
16 and reduced effectiveness. The legislature believes that  
17 coordinated planning and development of the State's air



1 transportation system and infrastructure would be achieved more  
2 effectively by establishing and giving a separate state entity  
3 overall jurisdiction and responsibility for aeronautics and the  
4 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 16(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 "Aeronautics" 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 "Aircraft" shall have the same meaning as defined in  
6 section 261-1.

7 "Airport" shall have the same meaning as defined in section  
8 261-1.

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

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

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

15 **§ -2 Airports corporation; establishment; board;**  
16 **members; chief executive officer.** (a) There is established the  
17 Hawaii airports corporation to develop and implement management  
18 structures, policies, and procedures based on airport industry  
19 best practices, to efficiently develop, manage, operate, and  
20 maintain the State's airports and aeronautical facilities, and  
21 to administer the provisions of chapters 261, 261D, and 262.



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

10 (b) The powers of the airports corporation shall be vested  
11 in and exercised by a board of directors, which shall consist of  
12 nine voting members, who shall be appointed by the governor  
13 pursuant to section 26-34; provided that there shall be one  
14 member who is a resident of each of the counties of Hawaii,  
15 Kauai, and Maui and the city and county of Honolulu, and one  
16 member representing general aviation interests. All members  
17 shall be appointed for terms of four years; provided that the  
18 governor shall stagger the initial terms pursuant to section  
19 26-34(a).

20 Members shall have relevant business and management  
21 experience, including experience in one or more of the following



1 disciplines: financial planning, budgeting, hospitality,  
2 tourism, commercial development, construction program  
3 management, marketing, law, aviation, or the cultural traditions  
4 and practices of Native Hawaiians. It is the intent of the  
5 legislature that there shall be, as far as practicable, a wide  
6 cross-section of these disciplines represented by the board.

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

12 Notwithstanding subsections 26-34(a) and (b), all members  
13 of the board shall continue in office until their respective  
14 successors have been appointed and qualified by the senate;  
15 provided that no member shall serve more than eight consecutive  
16 years.

17 No board member appointed under this section shall be an  
18 officer or employee of the State or a county.

19 Each board member shall serve without pay and shall be  
20 reimbursed for necessary out-of-pocket expenses incurred while



1 attending meetings and otherwise discharging the member's board  
2 related responsibilities.

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

- 6 (1) Not be a member of the board;
- 7 (2) Be exempt from chapter 76; and
- 8 (3) Receive a salary fixed by the board.

9 (d) The chief executive officer:

- 10 (1) Shall be selected based on criteria approved by the  
11 board, including experience in airport management at  
12 an executive level at a large-hub or medium-hub  
13 airport within the United States, management of large-  
14 scale capital programs, and domestic and international  
15 air service development;
- 16 (2) Shall be appointed by a vote of not less than five  
17 members of the board;
- 18 (3) Shall be employed subject to a formal contract, the  
19 terms of which shall be approved by the board;  
20 provided that the terms shall include provisions for



1           the removal of the chief executive officer with and  
2           without cause;

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

7           (5) Shall have such powers as described in this chapter  
8           and chapters 261, 261D, and 262, as may be delegated  
9           by the board;

10          (6) Shall, except as excused by the board, attend all  
11          meetings of the board, keep a record of the  
12          proceedings, and shall maintain and be the custodian  
13          of all books, records, documents, and papers filed  
14          with the corporation, and the official seal of the  
15          corporation;

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

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





1           (9) Shall serve as the chief procurement officer of the  
2           corporation; and

3           (10) Shall do all things necessary, as directed by the  
4           board, to carry out the powers and duties conferred  
5           upon the corporation by this chapter and chapters 261,  
6           261D, and 262.

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

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

20          § -3 Powers; generally. (a) The Hawaii airports  
21          corporation, by and through its board of directors:



- 1           (1) Shall exercise power and control over all airports,  
2           air navigation facilities, buildings, and other  
3           facilities that the corporation is responsible for  
4           managing, operating, or controlling under the  
5           provisions of this chapter and chapters 261, 261D, and  
6           262;
- 7           (2) Shall provide as appropriate for the landing, taking-  
8           off, and servicing of aircraft, and the loading and  
9           unloading of passengers and cargo at all airports  
10          under the control of the corporation;
- 11          (3) Shall establish performance targets and performance  
12          standards for all state airports to achieve the  
13          highest levels of customer service;
- 14          (4) Shall ensure that appropriate mission statements,  
15          business plans, minimum development standards, and  
16          strategic goals are established and that progress  
17          towards their accomplishment is regularly assessed and  
18          reported;
- 19          (5) Shall develop an organization and management structure  
20          to best accomplish the goals of the Hawaii airport  
21          system and the corporation;



- 1           (6) Shall be exempt from the provisions of chapter 103D,  
2           provided that:
- 3           (A) The board of directors shall maintain internal  
4           policies and procedures for the timely and  
5           efficient procurement of goods and services,  
6           including planning, engineering, and construction  
7           services, consistent with the goals of public  
8           accountability and public procurement practices;
- 9           (B) Insofar as practical, and based on specifications  
10          developed, adequate and reasonable competition of  
11          no fewer than three proposals shall be solicited  
12          for each project;
- 13          (C) Considering factors, including quality, warranty,  
14          and delivery, the award shall be made to the  
15          vendor with the most advantageous proposal; and
- 16          (D) The procurement requirements shall not be  
17          artificially divided or parceled so as to avoid  
18          competitive bidding or competitive proposals;
- 19          (7) Shall have a seal and may alter the seal at its  
20          pleasure;



- 1           (8) May make, execute, or assume contracts, leases, and  
2           all other instruments necessary or convenient for the  
3           exercise of its powers and functions under this  
4           chapter and chapters 261, 261D, and 262;
- 5           (9) Shall establish bylaws for its organization and  
6           internal management;
- 7           (10) Shall adopt rules pursuant to chapter 91, as necessary  
8           to implement the provisions of this chapter and  
9           chapters 261, 261D, and 262;
- 10          (11) Shall prepare and adopt the corporation's operating  
11          and capital budgets;
- 12          (12) May own, purchase, lease, exchange, or otherwise  
13          acquire property, whether real, personal, or mixed,  
14          tangible or intangible, and any interest therein, in  
15          the name of the corporation, and may assign, exchange,  
16          transfer, convey, lease, sublease, or encumber the  
17          same or any project, improvement, or facility related  
18          thereto; provided that the lands to which the  
19          corporation holds title shall not be subject to  
20          chapter 171;



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



1                   between the department of transportation and MUFG  
2                   Union Bank, N.A., relating to certain customer  
3                   facility charge revenue bonds, each as  
4                   supplemented and amended to date;

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

9           (C) Policies and procedures designed to ensure  
10           continuing compliance with the terms thereof for  
11           so long as they are applicable;

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



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- 1 open meeting subject to the requirements of chapter  
2 92;
- 3 (18) Subject to the provisions of the documents assumed by  
4 the corporation under paragraph (16) (A) above, may  
5 allot any and all airport revenue and issue revenue  
6 bonds, refunding revenue bonds, special facility  
7 revenue bonds, bond anticipation notes, and other  
8 lawfully authorized obligations of the State in its  
9 name and secured by the revenue, or user taxes, or any  
10 combination of both, of an undertaking or loan program  
11 pursuant to chapter 39, but not in excess of such  
12 principal amounts as are necessary for its purposes;
- 13 (19) May invest and secure its moneys;
- 14 (20) May exercise the power of eminent domain pursuant to  
15 chapter 101 and in accordance with sections 261-31 to  
16 261-36, to acquire real property for the corporation  
17 with which to carry out the provisions of this chapter  
18 and chapters 261, 261D, or 262;
- 19 (21) Shall establish and maintain an appropriate system of  
20 accounts for the corporation; and



1           (22) May do any and all things necessary to exercise the  
2           powers and perform the duties conferred upon the  
3           corporation by this chapter and chapters 261, 261D,  
4           and 262.

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

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





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

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



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



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

10                                   **PART II. BUDGET AND FINANCE**

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

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



1 charge special fund, or any other special or revolving fund that  
2 the legislature may establish.

3 (b) The corporation shall submit its biennium and  
4 supplemental operating and capital budgets to the department of  
5 transportation, which shall transmit those budgets to the  
6 governor.

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

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

18 (e) Notwithstanding sections 37-71 and 37-72, the governor  
19 shall include in the executive budget one lump sum for each  
20 means or source of funds for the corporation's operating and  
21 capital improvement budgets in the amounts specified in the



1 budgets transmitted to the governor by the department of  
2 transportation pursuant to subsection (b).

3 (f) The legislature shall appropriate one lump sum for the  
4 corporation's operating budget and one lump sum for the  
5 corporation's capital budget.

6 § -13 **Budget oversight.** The corporation's operating and  
7 capital budgets shall not be subject to review or approval by  
8 the governor or any state agency, except where state general  
9 funds are requested.

10 § -14 **Accounts; depositories.** (a) Appropriations for  
11 the corporation shall not be subject to any allotment system or  
12 requirements. The director of finance shall notify the  
13 corporation and the comptroller that all of the appropriations  
14 for the corporation for the fiscal year have been allotted and  
15 are available for expenditure as soon as possible, and in no  
16 event more than three business days, after the general or  
17 supplemental appropriation act is effective.

18 (b) Moneys in the airport revenue fund may be deposited in  
19 depositories other than the state treasury; provided that the  
20 airports corporation consults with the director of finance  
21 before selecting such a depository for the corporation's funds,



1 and submits copies of annual statements from each of the  
2 depositories in which the moneys from the funds are deposited.

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

10       **§ -16 Issuance of bonds.** On an annual basis, and upon  
11 request of the corporation, the legislature shall authorize for  
12 the issuance by the corporation of one lump sum for each of the  
13 following types of bonds: revenue bonds, refunding revenue  
14 bonds, and special facility revenue bonds of the State."

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

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



1 other transportation facilities and activities, other than  
2 airports and aeronautics, as may be authorized by law.

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

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

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

19 ~~On July 1, 1961, the Hawaii aeronautics commission, the~~  
20 ~~board of harbor commissioners and the highway commission shall~~



1 ~~be abolished and their remaining functions, duties, and powers~~  
2 ~~shall be transferred to the department of transportation.] "~~

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

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

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

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

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





1 president of the senate jointly, and the attorney  
2 general declines to provide such representation on the  
3 grounds of conflict of interest, the attorney general  
4 shall retain an attorney for the court, judicial, or  
5 legislative office, subject to approval by the court,  
6 judicial, or legislative office;

7 (3) By the legislative reference bureau;

8 (4) By any compilation commission that may be constituted  
9 from time to time;

10 (5) By the real estate commission for any action involving  
11 the real estate recovery fund;

12 (6) By the contractors license board for any action  
13 involving the contractors recovery fund;

14 (7) By the office of Hawaiian affairs;

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

18 (9) As grand jury counsel;

19 (10) By the Hawaii health systems corporation, or its  
20 regional system boards, or any of their facilities;

21 (11) By the auditor;



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



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

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

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



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

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

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

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

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



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



- 1           (7) Department heads, officers, and members of any board,  
2           commission, or other state agency whose appointments  
3           are made by the governor or are required by law to be  
4           confirmed by the senate;
- 5           (8) Judges, referees, receivers, masters, jurors, notaries  
6           public, land court examiners, court commissioners, and  
7           attorneys appointed by a state court for a special  
8           temporary service;
- 9           (9) One bailiff for the chief justice of the supreme court  
10          who shall have the powers and duties of a court  
11          officer and bailiff under section 606-14; one  
12          secretary or clerk for each justice of the supreme  
13          court, each judge of the intermediate appellate court,  
14          and each judge of the circuit court; one secretary for  
15          the judicial council; one deputy administrative  
16          director of the courts; three law clerks for the chief  
17          justice of the supreme court, two law clerks for each  
18          associate justice of the supreme court and each judge  
19          of the intermediate appellate court, one law clerk for  
20          each judge of the circuit court, two additional law  
21          clerks for the civil administrative judge of the



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

16 (10) First deputy and deputy attorneys general, the  
17 administrative services manager of the department of  
18 the attorney general, one secretary for the  
19 administrative services manager, an administrator and  
20 any support staff for the criminal and juvenile



1 justice resources coordination functions, and law  
2 clerks;

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

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

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





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



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

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

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

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



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

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

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

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

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



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



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

17       The director shall determine the applicability of this  
18 section to specific positions.

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



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

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

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

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

- 16 (1) Any regional system board of the Hawaii health systems  
17 corporation; [~~or~~]
- 18 (2) The Kaho'olawe island reserve commission, except as  
19 provided by section 6K-4.5[~~-~~]; or
- 20 (3) The Hawaii airports corporation."



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

3 "§171-2 Definition of public lands. "Public lands" means  
4 all lands or interest therein in the State classed as government  
5 or crown lands previous to August 15, 1895, or acquired or  
6 reserved by the government upon or subsequent to that date by  
7 purchase, exchange, escheat, or the exercise of the right of  
8 eminent domain, or in any other manner; including lands accreted  
9 after May 20, 2003, and not otherwise awarded, submerged lands,  
10 and lands beneath tidal waters that are suitable for  
11 reclamation, together with reclaimed lands that have been given  
12 the status of public lands under this chapter, except:

- 13 (1) Lands designated in section 203 of the Hawaiian Homes  
14 Commission Act, 1920, as amended;
- 15 (2) Lands set aside pursuant to law for the use of the  
16 United States;
- 17 (3) Lands being used for roads and streets;
- 18 (4) Lands to which the United States relinquished the  
19 absolute fee and ownership under section 91 of the  
20 Hawaiian Organic Act prior to the admission of Hawaii  
21 as a state of the United States unless subsequently



- 1 placed under the control of the board of land and  
2 natural resources and given the status of public lands  
3 in accordance with the state constitution, the  
4 Hawaiian Homes Commission Act, 1920, as amended, or  
5 other laws;
- 6 (5) Lands to which the University of Hawaii holds title;
- 7 (6) Lands to which the Hawaii housing finance and  
8 development corporation in its corporate capacity  
9 holds title;
- 10 (7) Lands to which the Hawaii community development  
11 authority in its corporate capacity holds title;
- 12 (8) Lands to which the department of agriculture holds  
13 title by way of foreclosure, voluntary surrender, or  
14 otherwise, to recover moneys loaned or to recover  
15 debts otherwise owed the department under chapter 167;
- 16 (9) Lands that are set aside by the governor to the Aloha  
17 Tower development corporation; lands leased to the  
18 Aloha Tower development corporation by any department  
19 or agency of the State; or lands to which the Aloha  
20 Tower development corporation holds title in its  
21 corporate capacity;





1           (10) Lands that are set aside by the governor to the  
2                    agribusiness development corporation; lands leased to  
3                    the agribusiness development corporation by any  
4                    department or agency of the State; or lands to which  
5                    the agribusiness development corporation in its  
6                    corporate capacity holds title; [~~and~~]

7           (11) Lands to which the Hawaii airports corporation holds  
8                    title; and

9           ~~[(11)]~~ (12) Lands to which the high technology development  
10                    corporation in its corporate capacity holds title;  
11 provided that, except as otherwise limited under federal law and  
12 except for state land used as an airport as defined in section  
13 262-1, public lands shall include the air rights over any  
14 portion of state land upon which a county mass transit project  
15 is developed after July 11, 2005."

16           SECTION 11. Section 261-1, Hawaii Revised Statutes, is  
17 amended as follows:

18           1. By adding two new definitions to be appropriately  
19 inserted and to read:

20           "Chief executive officer" means the chief executive  
21 officer of the Hawaii airports corporation.



1        "Corporation" means the Hawaii airports corporation  
2 established pursuant to chapter \_\_\_\_\_."

3        2. By repealing the definition of "department".

4        [~~"Department" means the department of transportation,~~"]

5        3. By repealing the definition of "director".

6        [~~"Director" means the director of transportation,~~"]

7        SECTION 12. Section 261-7, Hawaii Revised Statutes, shall  
8 be amended by amending subsection (e) to read as follows:

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



1 ~~statewide system of airports set forth in section 261-5(a),~~  
2 ~~which includes expenditures for capital improvement projects~~  
3 ~~approved by the legislature.] The corporation shall fix, impose,  
4 prescribe, and collect rates, rentals, fees, or charges for the  
5 lease, use, and services of its airport facilities at least  
6 sufficient to pay the costs of the operation, maintenance, and  
7 repair, if any, and the required payments of the principal of,  
8 and interest on, all bonds issued or assumed by the corporation  
9 and reserves therefor.~~

10       In setting airports rates and charges, including landing  
11 fees, the director may enter into contracts, leases, licenses,  
12 and other agreements with aeronautical users of the statewide  
13 system of airports containing such terms, conditions, and  
14 provisions as the director deems advisable.

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



1 informational hearing shall be held on the rates, rentals, fees,  
2 and charges.

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

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

19 ~~The rates, rentals, fees, and charges determined by the~~  
20 ~~director in the manner set forth in this subsection shall be~~  
21 ~~those charges payable by the aeronautical users for the periods~~



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

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



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

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

- 15 (1) The governor declares a state of emergency; and  
16 (2) The department determines that the waiver of landing  
17 fees and other charges for the aircraft is consistent  
18 with assisting in the delivery of humanitarian relief  
19 to disaster-stricken areas of the State."

20 SECTION 13. Section 262-1, Hawaii Revised Statutes, is  
21 amended as follows:



1           1. By inserting two new definitions to be appropriately  
2 inserted and to read:

3           "Chief executive officer" means the chief executive  
4 officer of the Hawaii airports corporation.

5           "Corporation" means the Hawaii airports corporation  
6 established pursuant to chapter \_\_\_\_\_."

7           2. By repealing the definition of "department".

8           [~~"Department" means the department of transportation;~~"]

9           3. By repealing the definition of "director".

10          [~~"Director" means the director of transportation or the~~  
11 ~~director's authorized representative;~~"]

12          SECTION 14. On and after the transfer completion date  
13 established by the Hawaii airports corporation in section 16(b)  
14 of this Act and thereafter, every reference to the department of  
15 transportation in chapters 261, 261D, and 262, Hawaii Revised  
16 Statutes, shall be a reference to the Hawaii airports  
17 corporation, and every reference to the director of  
18 transportation in chapters 261, 261D, and 262, Hawaii Revised  
19 Statutes, shall be a reference to the chief executive officer of  
20 the Hawaii airports corporation. After the transfer completion  
21 date but no later than when the subsequent supplements to the



1 Hawaii Revised Statutes are prepared, the revisor of statutes  
2 shall substitute the phrase "chief executive officer" for the  
3 terms "director" or "director of transportation", the term  
4 "Hawaii airports corporation" for the term "department of  
5 transportation", and "corporation" for the term "department" in  
6 chapters 261, 261D, and 262, Hawaii Revised Statutes.

7 SECTION 15. The Hawaii airports corporation shall succeed  
8 to the jurisdiction, powers, and responsibilities of the  
9 department of transportation over aeronautics and airports,  
10 including all of the functions relating to airports and  
11 aeronautics performed by the department and its airports  
12 division, on the transfer completion date announced by the  
13 Hawaii airports corporation pursuant to section 16(b) of this  
14 Act, which date shall be no sooner than July 1, 2019, and no  
15 later than July 1, 2021.

16 Thereafter, to the extent that the Hawaii airports  
17 corporation is authorized in this Act to exercise powers and  
18 duties which are also granted to other departments, offices, or  
19 boards of the State, with respect to airports and aeronautical  
20 facilities, the Hawaii airports corporation shall exclusively  
21 exercise such powers and perform such duties.





1           SECTION 16. (a) Within ninety days of the effective date  
2 of this Act, the governor shall designate a representative who  
3 shall facilitate the corporation's orderly succession to the  
4 jurisdiction, powers, functions, rights, benefits, obligations,  
5 assets, liabilities, funds, accounts, contracts, and all other  
6 things currently held, used, incurred, or performed by the  
7 department of transportation, its director and staff, and its  
8 airports division, in exercising the authority and fulfilling  
9 the responsibilities conferred upon the department of  
10 transportation and the director of transportation, by chapters  
11 261, 261D, and 262, Hawaii Revised Statutes. With regard to  
12 employees of the department of transportation, airports  
13 division, those employees covered by chapter 76, Hawaii Revised  
14 Statutes, shall maintain their status at the time of the  
15 succession to the authority.

16           Within one hundred eighty days of the effective date of  
17 this Act, the governor shall appoint the members of the board of  
18 directors of the Hawaii airports corporation.

19           To facilitate the corporation's timely assumption of the  
20 department of transportation's authority and responsibilities,  
21 including all of the department's associated bonds, notes, and



1 obligations as described in paragraph (6) below, the department  
2 of transportation, the department of accounting and general  
3 services, the department of human resources development, the  
4 state procurement office, and any other state department or  
5 agency shall, if requested by the corporation, enter into a  
6 memorandum of understanding with the corporation to:

7 (1) Provide administrative support services for the  
8 corporation pending the transfer of employees from the  
9 department of transportation to the Hawaii airports  
10 corporation pursuant to section 20 of this Act;

11 (2) Assist the corporation with the organization of its  
12 human resources development functions, including  
13 establishing:

14 (A) A human resources office;

15 (B) The corporation's civil service and civil service  
16 positions, and the classification system, merit  
17 appeals board, recruitment system, performance  
18 appraisal system, and the administrative rules,  
19 policies, standards, and procedures, including  
20 internal complaint procedures, adopted to support  
21 its civil service; and



- 1 (C) The corporation's exempt and excluded positions,  
2 and guidelines, procedures, and policies for  
3 filling them, and compensating the officers and  
4 employees who fill them;
- 5 (3) Assist the corporation in establishing its accounting,  
6 budgeting, fund management, and communication and  
7 electronic information systems, and creating  
8 appropriate interfaces between the corporation's  
9 accounting, budgeting, fund management, communication  
10 and electronic information systems, and those of the  
11 department of transportation, and other state  
12 agencies;
- 13 (4) Assist the corporation in identifying the plans and  
14 reports that departments and agencies administratively  
15 attached to a department are required to prepare for  
16 the governor, the legislature or another state  
17 department or agency with respect to aeronautics or  
18 the state's airport system; determining whether such  
19 plans and reports have been prepared and will be  
20 transferred to the corporation on the transfer



1 completion date; and preparing the same for the  
2 corporation, if they do not exist;

3 (5) Expeditiously transfer or otherwise facilitate the  
4 corporation's acquisition or assumption of all of the  
5 powers, functions, rights, benefits, obligations,  
6 assets, funds, accounts, contracts, and all other  
7 things held, used, incurred, or performed by the  
8 department of transportation, its director and staff,  
9 and its airports division, in exercising the authority  
10 and fulfilling the responsibilities conferred upon the  
11 department of transportation and the director of  
12 transportation by chapters 261, 261D, and 262, Hawaii  
13 Revised Statutes;

14 (6) Assign and transfer that certain Certificate of the  
15 Director of Transportation Providing for the Issuance  
16 of State of Hawaii Airports System Revenue Bonds dated  
17 as of May 1, 1969, relating to certain revenue bonds  
18 and other obligations; that certain Indenture of Trust  
19 dated as of December 1, 2013, between the department  
20 of transportation and U.S. Bank National Association  
21 relating to certain certificates of participation; and



1           that certain Indenture of Trust dated as of August 1,  
2           2014, between the department of transportation and  
3           MUFG Union Bank, N.A., relating to certain customer  
4           facility charge revenue bonds, each as supplemented  
5           and amended to date; the assumption of all  
6           indebtedness of the department of transportation  
7           heretofore issued and outstanding thereunder; and the  
8           adoption of policies and procedures designed to ensure  
9           continuing compliance with the terms thereof for so  
10          long as they are applicable; and

11          (7) Reimburse each cooperating department or agency for  
12          the cost of services provided under the memorandum of  
13          understanding.

14          (b) As soon as feasible, the Hawaii airports corporation,  
15          with the concurrence of the director of transportation and the  
16          governor, shall establish the transfer completion date, which  
17          shall be no sooner than July 1, 2019, and no later than July 1,  
18          2021, and publish notice of the transfer completion date by:

19          (1) Publishing the notice in a daily publication of  
20          statewide circulation pursuant to section 1-28.5,  
21          Hawaii Revised Statutes;



- 1           (2) Posting a copy of the notice on an electronic calendar
- 2                   on a website maintained by the State;
- 3           (3) Providing a copy of the notice to the department of
- 4                   transportation, the secretaries of the United States
- 5                   Department of Transportation and Department of
- 6                   Defense, the head of the Federal Aviation
- 7                   Administration, and the head of every other state
- 8                   department; and
- 9           (4) Posting the notice prominently at every airport and
- 10                   air navigation facility in the State.

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

13           SECTION 17. It is the intent of this Act not to jeopardize  
14 the receipt of any federal aid nor to impair any existing  
15 federal income tax exemption to, security interest of, or  
16 obligation of the State or any agency thereof to the holders of  
17 any bonds or other obligations issued by the State or by any  
18 department or agency of the State, and to the extent, and only  
19 to the extent necessary to effectuate this intent, the governor  
20 may modify the strict provisions of this Act, but shall promptly  
21 report any such modification with reasons therefor to the



1 legislature at its next session thereafter for review by the  
2 legislature.

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



1 Revised Statutes, after the transfer completion date shall be  
2 the responsibility of the corporation. The assumption by the  
3 airports corporation of the bonds, notes or other obligations of  
4 the department of transportation relating to the state's  
5 airports system shall be subject to the terms and provisions of  
6 any certificate, indenture, or resolution securing such bonds,  
7 notes, or other obligations. After the transfer completion  
8 date, the Hawaii airports corporation shall assume  
9 responsibility for all rights, duties, penalties, and  
10 proceedings of the department of transportation related to the  
11 State's airports system.

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





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



1           SECTION 20. The Hawaii airports corporation shall  
2 recognize all bargaining units and collective bargaining  
3 agreements existing at the time of transfer to the corporation.  
4 All employees who occupy civil service positions and whose  
5 functions are transferred to the Hawaii airports corporation by  
6 this Act shall retain their civil service status, whether  
7 permanent or temporary. The employees shall be transferred to  
8 the corporation without loss of salary, seniority (except as  
9 prescribed by applicable collective bargaining agreements),  
10 retention points, prior service credits, any vacation and sick  
11 leave credits previously earned, and other rights, benefits, and  
12 privileges, in accordance with state personnel laws and this  
13 Act; provided that the employees meet applicable requirements  
14 for the class or position to which transferred or appointed, as  
15 applicable.

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

19           Any employee who, prior to this Act, is exempt from civil  
20 service and is transferred to the corporation as a consequence  
21 of this Act may retain the employee's exempt status, but shall



1 not be appointed to a civil service position as a consequence of  
2 this Act. An exempt employee who is transferred by this Act  
3 shall not suffer any loss of prior service credit, vacation or  
4 sick leave credits previously earned, or other employee benefits  
5 or privileges as a consequence of this Act. The chief executive  
6 officer of the Hawaii airports corporation may prescribe the  
7 duties and qualifications of these employees and fix their  
8 salaries without regard to chapter 76, Hawaii Revised Statutes.

9 No employee included in a collective bargaining unit as an  
10 employee of the department of transportation shall be laid off  
11 as a consequence of this Act.

12 SECTION 21. On or no more than ninety days after the  
13 transfer completion date, all appropriations, records,  
14 equipment, machines, files, supplies, contracts, books, papers,  
15 documents, maps, and other personal property heretofore made,  
16 used, acquired, or held by the department of transportation  
17 relating to the functions transferred to the Hawaii airports  
18 corporation shall be transferred with the functions to which  
19 they relate.

20 SECTION 22. All rules, policies, procedures, guidelines,  
21 and other material adopted or developed by the department of



1 transportation to implement provisions of the Hawaii Revised  
2 Statutes that are reenacted or made applicable to the Hawaii  
3 airports corporation by this Act shall remain in full force and  
4 effect on and after the transfer completion date established  
5 pursuant to section 16(b) of this Act, until amended or repealed  
6 by the Hawaii airports corporation pursuant to chapter 91,  
7 Hawaii Revised Statutes. In the interim, every reference to the  
8 department of transportation or director of transportation in  
9 those rules, policies, procedures, guidelines, and other  
10 material is amended to refer to the Hawaii airports corporation  
11 or chief executive officer of the corporation, as appropriate.

12 SECTION 23. All deeds, executive orders, leases,  
13 contracts, loans, agreements, permits, or other documents  
14 executed or entered into by or on behalf of the department of  
15 transportation, pursuant to the provisions of the Hawaii Revised  
16 Statutes, that are reenacted or made applicable to the Hawaii  
17 airports corporation by this Act shall remain in full force and  
18 effect. On the transfer completion date established pursuant to  
19 section 16(b) of this Act, every reference to the department of  
20 transportation in those deeds, executive orders, leases,  
21 contracts, loans, agreements, permits or other documents shall



1 be construed as a reference to the Hawaii airports corporation  
2 or the board of directors of the corporation.

3 SECTION 24. There is appropriated out of the airport  
4 revenue fund the sum of \$3,000,000 or so much thereof as may be  
5 necessary for fiscal year 2018-2019, to effect the transfer of  
6 functions from the department of transportation to the Hawaii  
7 airports corporation required by this Act.

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

10 SECTION 25. If any provision of this Act, or the  
11 application thereof to any person or circumstance, is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act that can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

16 SECTION 26. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 27. This Act shall take effect on July 1, 2018;  
19 provided that section 12 shall take effect upon the satisfaction  
20 and discharge of that certain Certificate of the Director of  
21 Transportation Providing for the Issuance of the State of Hawaii



# S.B. NO. 2996

1 Airports System Revenue Bonds dated as of May 1, 1969; that  
 2 certain Indenture of Trust dated as of December 1, 2013, between  
 3 the department of transportation and U.S. Bank National  
 4 Association; and all obligations issued and outstanding under  
 5 such Certificate and Indenture.

6

INTRODUCED BY: *Dominic R. Inouye*

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# S.B. NO. 2996

**Report Title:**

Tourism; Transportation; Aeronautics; Hawaii Airports Corporation; Appropriation

**Description:**

Authorizes the establishment of the Hawaii airports corporation within the department of transportation for administrative purposes. Sets out appointment of members to the board of directors and powers and duties of the Hawaii airport corporation. Transfers the aeronautics functions of DOT to the Hawaii airports corporation by the established transfer completion date agreed upon by Hawaii airports corporation, the director of transportation, and the governor, which shall be no later than July 1, 2021.

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

