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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;

16 (D) The procurement requirements shall not be  
17 artificially divided or parceled so as to avoid  
18 competitive bidding or competitive proposals; and

19 (E) In an invitation to bid, the corporation shall  
20 specify that all bids include the name of each  
21 person or firm to be engaged by the bidder as a



- 1 joint contractor or subcontractor in the  
2 performance of the contract and the nature and  
3 the scope of the work to be performed by each.  
4 Construction bids that do not comply with this  
5 requirement may be accepted if acceptance is in  
6 the best interest of the corporation and the  
7 value of the work to be performed by the joint  
8 contractor or subcontractor is equal to or less  
9 than one per cent of the total bid amount;
- 10 (7) Shall have a seal and may alter the seal at its  
11 pleasure;
- 12 (8) May make, execute, or assume contracts, leases, and  
13 all other instruments necessary or convenient for the  
14 exercise of its powers and functions under this  
15 chapter and chapters 261, 261D, and 262;
- 16 (9) Shall establish bylaws for its organization and  
17 internal management;
- 18 (10) Shall adopt rules pursuant to chapter 91, as necessary  
19 to implement the provisions of this chapter and  
20 chapters 261, 261D, and 262;



- 1 (11) Shall prepare and adopt the corporation's operating  
2 and capital budgets;
- 3 (12) May own, purchase, lease, exchange, or otherwise  
4 acquire property, whether real, personal, or mixed,  
5 tangible or intangible, and any interest therein, in  
6 the name of the corporation, and may assign, exchange,  
7 transfer, convey, lease, sublease, or encumber the  
8 same or any project, improvement, or facility related  
9 thereto; provided that the lands to which the  
10 corporation holds title shall not be subject to  
11 chapter 171;
- 12 (13) May procure insurance against any loss in connection  
13 with its property and other assets, and operations, in  
14 such amounts and from such insurers as it deems  
15 desirable, or provide for self-insurance;
- 16 (14) May accept and receive gifts or grants in any form  
17 from any person, public entity, or source; provided  
18 that the grants and gifts shall be used for airports  
19 corporation purposes;
- 20 (15) Shall take all actions necessary under emergencies  
21 declared by the governor;



- 1           (16) Shall assume from the department of transportation:
- 2                 (A) That certain Certificate of the Director of
- 3                         Transportation Providing for the Issuance of
- 4                         State of Hawaii Airports System Revenue Bonds
- 5                         dated as of May 1, 1969, relating to certain
- 6                         revenue bonds and other obligations; that certain
- 7                         Indenture of Trust dated as of December 1, 2013,
- 8                         between the department of transportation and U.S.
- 9                         Bank National Association relating to certain
- 10                        certificates of participation; and that certain
- 11                        Indenture of Trust dated as of August 1, 2014,
- 12                        between the department of transportation and MUFG
- 13                        Union Bank, N.A., relating to certain customer
- 14                        facility charge revenue bonds, each as
- 15                        supplemented and amended to date; and
- 16                 (B) The bonds, notes, and other obligations of the
- 17                        department of transportation outstanding under,
- 18                        as well as the covenants, restrictions, and other
- 19                        requirements set forth in, such documents;



- 1 (17) Shall adopt policies and procedures designed to ensure  
2 continuing compliance with the terms of the documents  
3 in paragraph (16) for so long as they are applicable;
- 4 (18) Shall fix, impose, prescribe, and collect rates,  
5 rentals, fees, or charges for the lease, use, and  
6 services of its airport facilities at least sufficient  
7 to pay the costs of operation, maintenance, and  
8 repair, if any, and the required payments of the  
9 principal of and interest on all bonds, notes, or  
10 other obligations issued or assumed by the airports  
11 corporation and reserves therefor; provided that such  
12 rates, rentals, fees, or charges are established at an  
13 open meeting subject to the requirements of chapter  
14 92;
- 15 (19) Subject to the provisions of the documents assumed by  
16 the corporation under paragraph (16) (A) above, may  
17 allot any and all airport revenue and issue revenue  
18 bonds, refunding revenue bonds, special facility  
19 revenue bonds, bond anticipation notes, and other  
20 lawfully authorized obligations of the State in its  
21 name and secured by the revenue, or user taxes, or any



1 combination of both, of an undertaking or loan program  
2 pursuant to chapter 39, but not in excess of such  
3 principal amounts as are necessary for its purposes;

4 (20) May invest and secure its moneys;

5 (21) May exercise the power of eminent domain pursuant to  
6 chapter 101 and in accordance with sections 261-31 to  
7 261-36, to acquire real property for the corporation  
8 with which to carry out the provisions of this chapter  
9 and chapters 261, 261D, or 262;

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

12 (23) Shall cooperate with the department of land and  
13 natural resources to provide an annual accounting of  
14 all receipts from lands described in section 5(f) of  
15 the Admission Act, Public Law 86-3, for the prior  
16 fiscal year, pursuant to section 5 of Act 178, Session  
17 Laws of Hawaii 2006; and

18 (24) May do any and all things necessary to exercise the  
19 powers and perform the duties conferred upon the  
20 corporation by this chapter and chapters 261, 261D,  
21 and 262.





1 (b) The corporation shall not be subject to chapters 36,  
2 37, 38, and 40, except for section 36-28.5 and as otherwise  
3 provided in this chapter and chapter 261.

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

17 The board of directors, upon the advice of its attorney,  
18 may arbitrate, compromise, or settle any claim, action, or suit  
19 brought against the airports corporation pursuant to this  
20 section. Any claim compromised or settled under this subsection  
21 shall be payable solely from the moneys and property of the



1 airports corporation and shall not constitute a general  
2 obligation of the State or be secured directly or indirectly by  
3 the full faith and credit of the State or the general credit of  
4 the State or by any revenue or taxes of the State. Nothing in  
5 this subsection shall preclude the board of directors from  
6 requesting legislative appropriations to fund the settlement of  
7 any such claim or judgment against the airports corporation or  
8 its officers, employees, or agents.

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

16 (d) The corporation shall be a "jurisdiction" under  
17 chapter 76 and an "appropriate authority" and an "appointing  
18 authority" for those of its officers and employees who are  
19 excluded employees under chapter 89C. In addition to its chief  
20 executive officer, the corporation may employ executive officers  
21 appointed by the chief executive officer who are qualified to



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

15 (e) The corporation and its corporate existence shall  
16 continue until terminated by law; provided, that no such  
17 termination shall take effect as long as bonds or other  
18 obligations issued or assumed by the corporation are  
19 outstanding, unless adequate provision has been made for the  
20 payment or satisfaction thereof. Upon termination of the  
21 existence of the corporation, all of the rights and properties



1 of the corporation then remaining shall pass to and vest in the  
2 State in the manner prescribed by law.

3 **PART II. BUDGET AND FINANCE**

4 **§ -11 Exemptions.** The airport revenue fund, passenger  
5 facility charge special fund, and rental motor vehicle customer  
6 facility charge special fund shall be exempt from chapters 36,  
7 37, and 40.

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

17 (b) The corporation shall submit its biennium and  
18 supplemental operating and capital budgets to the department of  
19 transportation, which shall transmit those budgets to the  
20 governor.



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

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

12 (e) Notwithstanding sections 37-71 and 37-72, the governor  
13 shall include in the executive budget one lump sum for each  
14 means or source of funds for the corporation's operating and  
15 capital improvement budgets in the amounts specified in the  
16 budgets transmitted to the governor by the department of  
17 transportation pursuant to subsection (b).

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



1           §   -13 **Budget oversight.** The corporation's operating and  
2 capital budgets shall not be subject to review or approval by  
3 the governor or any state agency, except where state general  
4 funds are requested.

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

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



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

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

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

16           **"§26-19 Department of transportation.** The department of  
17 transportation shall be headed by a single executive to be known  
18 as the director of transportation. The department shall  
19 establish, maintain, and operate transportation facilities of  
20 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; [~~or~~]
- 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 [~~7~~] and  
18 harbors [~~7, and airports~~] divisions or other functions  
19 within the department of transportation as may be  
20 assigned by the director of transportation, with the  
21 approval of the governor; four additional deputies in



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

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

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

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

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



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



- 1 (24) The sheriff;
- 2 (25) A gender and other fairness coordinator hired by the  
3 judiciary;
- 4 (26) Positions in the Hawaii National Guard youth and adult  
5 education programs; [~~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; [~~e~~]
- 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~~[-]~~; provided further that lands  
16       to which the Hawaii airports corporation holds title shall be  
17       considered "public lands" for the purpose of accounting of all  
18       receipts from lands described in section 5(f) of the Admission  
19       Act, pursuant to section 5 of Act 178, Session Laws of Hawaii  
20       2006."



1 SECTION 11. Effective upon the satisfaction and discharge  
2 of that certain Certificate of the Director of Transportation  
3 Providing for the Issuance of the State of Hawaii Airports  
4 System Revenue Bonds dated as of May 1,1969; that certain  
5 Indenture of Trust dated as of December 1, 2013, between the  
6 department of transportation and U.S. Bank National Association;  
7 and all obligations issued and outstanding under such  
8 Certificate and Indenture, section 261-1, Hawaii Revised  
9 Statutes, is amended as follows:

10 1. By adding two new definitions to be appropriately  
11 inserted and to read:

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

14 "Corporation" means the Hawaii airports corporation  
15 established pursuant to chapter ."

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

17 [~~"Department" means the department of transportation.~~]

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

19 [~~"Director" means the director of transportation.~~]

20 SECTION 12. Effective upon the satisfaction and discharge  
21 of that certain Certificate of the Director of Transportation



1 Providing for the Issuance of the State of Hawaii Airports  
2 System Revenue Bonds dated as of May 1, 1969; that certain  
3 Indenture of Trust dated as of December 1, 2013, between the  
4 department of transportation and U.S. Bank National Association;  
5 and all obligations issued and outstanding under such  
6 Certificate and Indenture, section 261-7, Hawaii Revised  
7 Statutes, shall be amended by amending subsection (e) to read as  
8 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~~] chief executive officer may enter into  
12 contracts, leases, licenses, and other agreements with  
13 aeronautical users of the statewide system of airports  
14 containing such terms, conditions, and provisions as the  
15 [~~director~~] chief executive officer deems advisable.

16       If the [~~director~~] chief executive officer has not entered  
17 into contracts, leases, licenses, and other agreements with any  
18 or fewer than all of the aeronautical users of the statewide  
19 system of airports prior to the expiration of an existing  
20 contract, lease, license, or agreement, the [~~director~~] chief  
21 executive officer shall set and impose rates, rentals, fees, and



1 charges pursuant to this subsection without regard to the  
2 requirements of chapter 91; provided that a public informational  
3 hearing shall be held on the rates, rentals, fees, and charges.

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

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

20 ~~The rates, rentals, fees, and charges determined by the~~  
21 ~~director in the manner set forth in this subsection shall be~~



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

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



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

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

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





1 SECTION 13. Effective upon the satisfaction and discharge  
2 of that certain Certificate of the Director of Transportation  
3 Providing for the Issuance of the State of Hawaii Airports  
4 System Revenue Bonds dated as of May 1,1969; that certain  
5 Indenture of Trust dated as of December 1, 2013, between the  
6 department of transportation and U.S. Bank National Association;  
7 and all obligations issued and outstanding under such  
8 Certificate and Indenture, section 262-1, Hawaii Revised  
9 Statutes, is amended as follows:

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

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

14 "Corporation" means the Hawaii airports corporation  
15 established pursuant to chapter ."

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

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

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

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



1 SECTION 14. On and after the transfer completion date  
2 established by the Hawaii airports corporation in section 16(b)  
3 of this Act, and until the revisor of statutes makes the  
4 amendments to chapters 261, 261D, and 262, Hawaii Revised  
5 Statutes, described in this section, every reference to the  
6 department of transportation in chapters 261, 261D, and 262,  
7 Hawaii Revised Statutes, shall be a reference to the Hawaii  
8 airports corporation, and every reference to the director of  
9 transportation in chapters 261, 261D, and 262, Hawaii Revised  
10 Statutes, shall be a reference to the chief executive officer of  
11 the Hawaii airports corporation. After the transfer completion  
12 date but no later than when the subsequent supplements to the  
13 Hawaii Revised Statutes are prepared, the revisor of statutes  
14 shall substitute the phrase "chief executive officer" for the  
15 terms "director" or "director of transportation", the term  
16 "Hawaii airports corporation" for the term "department of  
17 transportation", and "corporation" for the term "department" in  
18 chapters 261, 261D, and 262, Hawaii Revised Statutes.

19 SECTION 15. The Hawaii airports corporation shall succeed  
20 to the jurisdiction, powers, and responsibilities of the  
21 department of transportation over aeronautics and airports,



1 including all of the functions relating to airports and  
2 aeronautics performed by the department and its airports  
3 division, on the transfer completion date announced by the  
4 Hawaii airports corporation pursuant to section 16(b) of this  
5 Act, which date shall be no sooner than July 1, 2019, and no  
6 later than July 1, 2021.

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

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



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

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

11          SECTION 16. (a) Within ninety days of the effective date  
12          of this Act, the governor shall designate a representative who  
13          shall facilitate the corporation's orderly succession to the  
14          jurisdiction, powers, functions, rights, benefits, obligations,  
15          assets, liabilities, funds, accounts, contracts, and all other  
16          things currently held, used, incurred, or performed by the  
17          department of transportation, its director and staff, and its  
18          airports division, in exercising the authority and fulfilling  
19          the responsibilities conferred upon the department of  
20          transportation and the director of transportation, by chapters  
21          261, 261D, and 262, Hawaii Revised Statutes.



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

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

13           (1) Provide administrative support services for the  
14 corporation pending the transfer of employees from the  
15 department of transportation to the Hawaii airports  
16 corporation pursuant to section 20 of this Act;

17           (2) Assist the corporation with the organization of its  
18 human resources development functions, including  
19 establishing:

20           (A) A human resources office;



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



1 attached to a department are required to prepare for  
2 the governor, the legislature, or another state  
3 department or agency with respect to aeronautics or  
4 the State's airport system; determining whether such  
5 plans and reports have been prepared and will be  
6 transferred to the corporation on the transfer  
7 completion date; and preparing the same for the  
8 corporation, if they do not exist;

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

20 (6) Assign and transfer that certain Certificate of the  
21 Director of Transportation Providing for the Issuance



1 of State of Hawaii Airports System Revenue Bonds dated  
2 as of May 1, 1969, relating to certain revenue bonds  
3 and other obligations; that certain Indenture of Trust  
4 dated as of December 1, 2013, between the department  
5 of transportation and U.S. Bank National Association  
6 relating to certain certificates of participation; and  
7 that certain Indenture of Trust dated as of August 1,  
8 2014, between the department of transportation and  
9 MUFG Union Bank, N.A., relating to certain customer  
10 facility charge revenue bonds, each as supplemented  
11 and amended to date; the assumption of all  
12 indebtedness of the department of transportation  
13 heretofore issued and outstanding thereunder; and the  
14 adoption of policies and procedures designed to ensure  
15 continuing compliance with the terms thereof for so  
16 long as they are applicable; and

17 (7) Reimburse each cooperating department or agency for  
18 the cost of services provided under the memorandum of  
19 understanding.

20 (b) As soon as feasible, the Hawaii airports corporation,  
21 with the concurrence of the director of transportation and the





1 governor, shall establish the transfer completion date, which  
2 shall be no sooner than July 1, 2019, and no later than July 1,  
3 2021, and publish notice of the transfer completion date by:

- 4 (1) Publishing the notice in a daily publication of  
5 statewide circulation pursuant to section 1-28.5,  
6 Hawaii Revised Statutes;
- 7 (2) Posting a copy of the notice on an electronic calendar  
8 on a website maintained by the State;
- 9 (3) Providing a copy of the notice to the department of  
10 transportation, the secretaries of the United States  
11 Department of Transportation and Department of  
12 Defense, the head of the Federal Aviation  
13 Administration, and the head of every other state  
14 department; and
- 15 (4) Posting the notice prominently at every airport and  
16 air navigation facility in the State.

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

19 SECTION 17. It is the intent of this Act not to jeopardize  
20 the receipt of any federal aid nor to impair any existing  
21 federal income tax exemption to, security interest of, or



1 obligation of the State or any agency thereof to the holders of  
2 any bonds or other obligations issued by the State or by any  
3 department or agency of the State, and to the extent, and only  
4 to the extent necessary to effectuate this intent, the governor  
5 may modify the strict provisions of this Act, but shall promptly  
6 report any such modification with reasons therefor to the  
7 legislature at its next session thereafter for review by the  
8 legislature.

9 SECTION 18. This Act does not affect rights and duties  
10 that matured, penalties that were incurred, and proceedings that  
11 were begun before its effective date. The department of  
12 transportation shall be responsible for any and all obligations  
13 incurred by the department or its airports division in  
14 connection with the department's exercise of the authority and  
15 performance of the duties and responsibilities conferred upon it  
16 and its director by chapters 261, 261D, and 262, Hawaii Revised  
17 Statutes, until such time as such obligations, including any  
18 accounts payable, accrued paid time off, debt, capital leases,  
19 and other obligations incurred before the transfer date, have  
20 been assumed by the Hawaii airports corporation, which shall not  
21 occur prior to the transfer completion date. All collective



1 bargaining disputes or claims against the department grounded in  
2 an act or omission, or an event that occurred prior to the  
3 transfer completion date shall remain the responsibility of the  
4 department. All liabilities arising out of the Hawaii airports  
5 corporation's exercise of the authority and performance of the  
6 duties and responsibilities conferred upon it and its chief  
7 executive officer by chapters 261, 261D, and 262, Hawaii Revised  
8 Statutes, after the transfer completion date shall be the  
9 responsibility of the corporation. The assumption by the  
10 airports corporation of the bonds, notes, or other obligations  
11 of the department of transportation relating to the State's  
12 airports system shall be subject to the terms and provisions of  
13 any certificate, indenture, or resolution securing such bonds,  
14 notes, or other obligations. On the transfer completion date,  
15 the Hawaii airports corporation shall assume responsibility for  
16 all rights, duties, penalties, and proceedings of the department  
17 of transportation related to the State's airports system.

18 SECTION 19. The State of Hawaii pledges to and agrees with  
19 the holders of the bonds, notes, or other obligations of the  
20 department of transportation being assumed by the airports  
21 corporation on the transfer completion date and the holders of



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



1 to the use of such funds, so as to impair the terms of any such  
2 contract securing the same. The airports corporation is  
3 authorized to include these pledges and agreements of the State  
4 in any contract with the holders of bonds, notes, or other  
5 obligations issued pursuant to chapter 37D or 39, Hawaii Revised  
6 Statutes.

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



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

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

15 No employee included in a collective bargaining unit as an  
16 employee of the department of transportation shall be laid off  
17 as a consequence of this Act.

18 SECTION 21. On or no more than ninety days after the  
19 transfer completion date, all appropriations, records,  
20 equipment, machines, files, supplies, contracts, books, papers,  
21 documents, maps, and other personal property heretofore made,



1 used, acquired, or held by the department of transportation  
2 relating to the functions transferred to the Hawaii airports  
3 corporation shall be transferred with the functions to which  
4 they relate.

5 SECTION 22. All rules, policies, procedures, guidelines,  
6 and other material adopted or developed by the department of  
7 transportation to implement provisions of the Hawaii Revised  
8 Statutes that are reenacted or made applicable to the Hawaii  
9 airports corporation by this Act shall remain in full force and  
10 effect on and after the transfer completion date established  
11 pursuant to section 16(b) of this Act, until amended or repealed  
12 by the Hawaii airports corporation pursuant to chapter 91,  
13 Hawaii Revised Statutes. In the interim, every reference to the  
14 department of transportation or director of transportation in  
15 those rules, policies, procedures, guidelines, and other  
16 material is amended to refer to the Hawaii airports corporation  
17 or chief executive officer of the corporation, as appropriate.

18 SECTION 23. All deeds, executive orders, leases,  
19 contracts, loans, agreements, permits, or other documents  
20 executed or entered into by or on behalf of the department of  
21 transportation, pursuant to the provisions of the Hawaii Revised



1 Statutes, that are reenacted or made applicable to the Hawaii  
2 airports corporation by this Act shall remain in full force and  
3 effect. On the transfer completion date established pursuant to  
4 section 16(b) of this Act, every reference to the department of  
5 transportation in those deeds, executive orders, leases,  
6 contracts, loans, agreements, permits or other documents shall  
7 be construed as a reference to the Hawaii airports corporation  
8 or the board of directors of the corporation.

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

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

16 SECTION 25. If any provision of this Act, or the  
17 application thereof to any person or circumstance, is held  
18 invalid, the invalidity does not affect other provisions or  
19 applications of the Act that can be given effect without the  
20 invalid provision or application, and to this end the provisions  
21 of this Act are severable.





1 SECTION 26. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 27. This Act shall take effect on July 1, 2018;  
4 provided that sections 11, 12, and 13 shall take effect upon the  
5 satisfaction and discharge of that certain Certificate of the  
6 Director of Transportation Providing for the Issuance of the  
7 State of Hawaii Airports System Revenue Bonds dated as of May 1,  
8 1969; that certain Indenture of Trust dated as of December 1,  
9 2013, between the department of transportation and U.S. Bank  
10 National Association; and all obligations issued and outstanding  
11 under such Certificate and Indenture.

12



**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. (SD1)

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

