
A BILL FOR AN ACT

RELATING TO AN AIRPORTS CORPORATION.

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

1 SECTION 1. The legislature finds that the well-being of
2 the State is substantially dependent on the efficient
3 administration, development, management, and operation of its
4 airports and air transportation infrastructure. The legislature
5 further finds that responsibility for Hawaii's airport planning,
6 management, marketing, and capital development functions is
7 currently distributed among a number of agencies, including the
8 department of transportation's airports division, Hawaii tourism
9 authority, department of budget and finance, department of human
10 resources development, board of land and natural resources,
11 department of health (with respect to environmental concerns),
12 and office of Hawaiian affairs (with respect to ceded land
13 issues), among others. Distributed responsibility and
14 involvement by multiple agencies, which sometimes have
15 conflicting goals and priorities, results in inefficiency,
16 delayed decision-making, and reduced effectiveness. The
17 legislature believes that coordinated planning and development



1 of the State's air transportation system and infrastructure
2 would be achieved more effectively by establishing and giving a
3 separate state entity overall jurisdiction and responsibility
4 for aeronautics and the State's airports.

5 The legislature further finds that the establishment of a
6 separate airports corporation would assist in the achievement of
7 the following important statewide objectives:

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



- 1 (7) Increasing responsiveness to consumer needs,
2 commercial opportunities, and economic demands; and
3 (8) Maximizing job creation within the State.

4 In addition, the management and administration of scarce and
5 increasingly valuable airport resources is most effectively
6 served by a separate airports corporation.

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

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

18 "CHAPTER

19 HAWAII AIRPORTS CORPORATION

20 PART I. GENERAL PROVISIONS

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



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

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

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

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

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

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

13 **§ -2 Airports corporation; establishment; board;**
14 **members; chief executive officer.** (a) There is established the
15 Hawaii airports corporation to develop and implement management
16 structures, policies, and procedures based on airport industry
17 best practices, to efficiently develop, manage, operate, and
18 maintain the State's airports and aeronautical facilities, and
19 to administer the provisions of chapters 261, 261D, and 262.
20 The corporation shall be a body politic and corporate, and an
21 instrumentality and agency of the State, placed within the



1 department of transportation for administrative purposes only,
2 and shall enjoy the same sovereign immunity available to the
3 State. The corporation shall not be subject to supervision by
4 the department of transportation or its director. Further,
5 section 26-35(a)(1), (4), (5), and (6) shall not apply to the
6 airports corporation.

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

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



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

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

8 (e) Notwithstanding section 26-34(a) and (b), all members
9 of the board shall continue in office until their respective
10 successors have been appointed and qualified by the senate;
11 provided that no member shall serve more than eight consecutive
12 years.

13 (f) No board member appointed under this section shall be
14 an officer or employee of the State or a county.

15 (g) Each board member shall serve without pay and shall be
16 reimbursed for necessary out-of-pocket expenses incurred while
17 attending meetings and otherwise discharging the member's board
18 related responsibilities.

19 (h) The airports corporation shall be headed by a single
20 executive to be known as the chief executive officer of the
21 Hawaii airports corporation, who shall:



- 1 (1) Not be a member of the board;
- 2 (2) Be exempt from chapters 76 and 89; and
- 3 (3) Receive a salary fixed by the board.
- 4 (i) The chief executive officer:
 - 5 (1) Shall be selected based on criteria approved by the
 - 6 board, including experience in airport management at
 - 7 an executive level at a large-hub or medium-hub
 - 8 airport within the United States, management of large-
 - 9 scale capital programs, and domestic and international
 - 10 air service development;
 - 11 (2) Shall be appointed by an affirmative vote of not less
 - 12 than five members of the board;
 - 13 (3) Shall be employed subject to a formal contract, the
 - 14 terms of which shall be approved by the board;
 - 15 provided that the terms shall include provisions for
 - 16 the removal of the chief executive officer whether
 - 17 with or without cause;
 - 18 (4) May be removed from office only by a vote of not less
 - 19 than five members of the board; provided that the
 - 20 basis for removal is consistent with the terms of the
 - 21 chief executive officer's employment contract;



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



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

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

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

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

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



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



- 1 efficient procurement of goods and services,
2 including planning, engineering, and construction
3 services, to include post-award contract
4 management and oversight procedures, that are
5 consistent with the goals of public
6 accountability and public procurement practices;
- 7 (C) Procurement policies shall be published and
8 available to the public;
- 9 (D) The corporation shall implement and maintain an
10 electronic procurement system to ensure
11 electronic posting, to include requisition-to-
12 check, contract management, and spend analysis
13 modules. All solicitations, including any bid
14 openings, and additional solicitation documents
15 shall be available online;
- 16 (E) The corporation shall develop key performance
17 indicators covering the following four areas:
- 18 (i) Effective management and increased
19 efficiency of the procurement process;
- 20 (ii) Contract management and supplier
21 performance;



- 1 (iii) Transparency, openness, and accountability
2 of procurement processes; and
- 3 (iv) Professionalism of the procurement
4 workforce;
- 5 (F) The corporation shall develop a robust training
6 and procurement delegation system;
- 7 (G) Professional services contracts for licensees
8 under chapter 464 shall be procured in accordance
9 with section 103D-104; whereas all other services
10 may be procured using best value competitive
11 proposals and using, insofar as practical,
12 deliverables as a payment method and limiting use
13 of time and materials contracts;
- 14 (H) Cost plus percentage of cost type contracts shall
15 be disallowed;
- 16 (I) Insofar as practical, and based on specifications
17 developed, adequate and reasonable competition of
18 no fewer than three proposals shall be solicited
19 for each project;
- 20 (J) Factors, including quality, warranty, delivery,
21 and full lifecycle costs to include handover,



1 surge, and disaster preparedness factors, and a
2 best-value award, to include a past performance
3 evaluation factor, shall be considered in
4 determining the offeror with the most
5 advantageous proposal;

6 (K) The procurement requirements shall not be
7 artificially divided or parceled so as to avoid
8 competitive bidding or competitive proposals;

9 (L) The corporation shall implement a dispute
10 resolution process for procurement award and
11 post-award contract actions; and

12 (M) In an invitation to bid, the corporation shall
13 specify that all bids include the name of each
14 person or firm to be engaged by the bidder as a
15 joint contractor or subcontractor in the
16 performance of the contract and the nature and
17 the scope of the work to be performed by each.
18 Construction bids that do not comply with this
19 subparagraph may be accepted if acceptance is in
20 the best interest of the corporation and the
21 value of the work to be performed by the joint



- 1 contractor or subcontractor is equal to or less
2 than one per cent of the total bid amount;
- 3 (7) Shall have an official seal and may alter the official
4 seal at its pleasure;
- 5 (8) May make, execute, or assume contracts, leases, and
6 all other instruments necessary or convenient for the
7 exercise of its powers and functions under this
8 chapter and chapters 261, 261D, and 262;
- 9 (9) Shall establish bylaws for its organization and
10 internal management;
- 11 (10) Shall adopt rules pursuant to chapter 91 as necessary
12 to implement the provisions of this chapter and
13 chapters 261, 261D, and 262;
- 14 (11) Shall prepare and adopt the corporation's operating
15 and capital budgets;
- 16 (12) May own, purchase, lease, exchange, or otherwise
17 acquire property, whether real, personal, or mixed,
18 tangible or intangible, and any interest therein, in
19 the name of the corporation, and may assign, exchange,
20 transfer, convey, lease, sublease, or encumber the
21 same or any project, improvement, or facility related



1 thereto; provided that the lands to which the
2 corporation holds title shall not be subject to
3 chapter 171; provided further that any sale, gift, or
4 exchange of real property shall be subject to the
5 terms, conditions, and restrictions applicable to the
6 sale, gift, or exchange of public lands in section
7 171-50 and 171-64.7; and provided further that any
8 lease, sublease permit, or other encumbrance for any
9 real property shall be issued in accordance with
10 administrative rules adopted by the corporation
11 pursuant to chapter 91;

12 (13) May procure insurance against any loss in connection
13 with its property and other assets and operations, in
14 amounts and from insurers as it deems desirable; or
15 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:
- 3 (i) Certain Certificate of the Director of
- 4 Transportation Providing for the Issuance of
- 5 State of Hawaii Airports System Revenue
- 6 Bonds dated as of May 1, 1969, relating to
- 7 certain revenue bonds and other obligations;
- 8 (ii) Certain Indenture of Trust dated as of
- 9 December 1, 2013, between the department of
- 10 transportation and U.S. Bank National
- 11 Association relating to certain certificates
- 12 of participation; and
- 13 (iii) Certain Indenture of Trust dated as of
- 14 August 1, 2014, between the department of
- 15 transportation and MUFG Union Bank, N.A.,
- 16 relating to certain customer facility charge
- 17 revenue bonds, each as supplemented and
- 18 amended to date; and
- 19 (B) The bonds, notes, and other obligations of the
- 20 department of transportation outstanding under,



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



- 1 lawfully authorized obligations of the State in its
2 name and secured by the revenue, or user taxes, or any
3 combination of both, of an undertaking or loan program
4 pursuant to chapter 39, but not in excess of the
5 principal amounts as are necessary for its purposes;
- 6 (20) May invest and secure its moneys;
- 7 (21) May exercise the power of eminent domain pursuant to
8 chapter 101 and in accordance with sections 261-31 to
9 261-36, to acquire real property for the corporation
10 with which to carry out the provisions of this chapter
11 and chapters 261, 261D, or 262;
- 12 (22) Shall establish and maintain an appropriate system of
13 accounts for the corporation;
- 14 (23) Shall cooperate with the department of land and
15 natural resources to provide an annual accounting of
16 all receipts from lands described in section 5(f) of
17 the Admission Act, Public Law 86-3, for the prior
18 fiscal year, pursuant to section 5 of Act 178, Session
19 Laws of Hawaii 2006; and
- 20 (24) May do any and all things necessary to exercise the
21 powers and perform the duties conferred upon the



1 corporation by this chapter and chapters 261, 261D,
2 and 262.

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

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

19 The board of directors, upon the advice of its attorney,
20 may arbitrate, compromise, or settle any claim, action, or suit
21 brought against the airports corporation pursuant to this



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

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

18 (d) The corporation shall be a "jurisdiction" and an
19 "appointing authority" under chapter 76 and an "appropriate
20 authority" for those of its officers and employees who are
21 excluded employees under chapter 89C. In addition to its chief



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

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



1 Upon termination of the existence of the corporation, all of the
2 rights and properties of the corporation then remaining shall
3 pass to and vest in the State in the manner prescribed by law.

4 **PART II. BUDGET AND FINANCE**

5 **§ -11 Exemptions.** The airport revenue fund, passenger
6 facility charge special fund, and rental motor vehicle customer
7 facility charge special fund shall be exempt from chapters 36,
8 37, and 40.

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

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



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

9 (d) The supporting documents for each budget proposal
10 shall include the annual report, but need not include any other
11 information, except when 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 budget proposals in the amounts specified in the budget
16 proposals 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 agency of the executive branch, except where
4 state general 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 to be issued by the corporation:
12 revenue bonds, refunding revenue bonds, and special facility
13 revenue bonds."

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; [ø]
- 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; [~~or~~]
- 18 (2) The Kaho'olawe island reserve commission, except as
19 provided by section 6K-4.5 [~~or~~]; 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 Hawaii 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 that are described in section 5(f) of the
19 Admission Act, Public Law 86-3, for the prior fiscal year,
20 pursuant to section 5 of Act 178, Session Laws of Hawaii 2006."



1 SECTION 11. Section 261-7, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

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



1 repair, if any, and the required payments of the principal of,
2 and interest on, all bonds issued or assumed by the corporation
3 and reserves therefor.

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

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

19 ~~[The director shall develop rates, rentals, fees, and~~
20 ~~charges in accordance with a residual methodology so that the~~
21 ~~statewide system of airports shall be, and always remain, self-~~



1 ~~sustaining. The rates, rentals, fees, and charges shall be set~~
2 ~~at such levels as to produce revenues which, together with~~
3 ~~aviation fuel taxes, shall be at least sufficient to meet the~~
4 ~~expenditures of the statewide system of airports set forth in~~
5 ~~section 261-5(a), including expenditures for capital improvement~~
6 ~~projects approved by the legislature, and to comply with~~
7 ~~covenants and agreements with holders of airport revenue bonds.~~

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

14 ~~The rates, rentals, fees, and charges determined by the~~
15 ~~director in the manner set forth in this subsection shall be~~
16 ~~those charges payable by the aeronautical users for the periods~~
17 ~~immediately following the date of expiration of the existing~~
18 ~~contract, lease, license, or agreement. If fees are established~~
19 ~~pursuant to this section, the department shall prepare a~~
20 ~~detailed report on the circumstances and rates and charges that~~
21 ~~have been established, and shall submit the report to the~~



1 ~~legislature no later than twenty days prior to the convening of~~
2 ~~the next regular session.~~

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



1 ~~rentals, fees, and charges in accordance with this section~~
2 ~~within seventy five days of the disapproval. Pending the~~
3 ~~development of a new schedule of rates, rentals, fees, and~~
4 ~~charges, the schedule submitted to the legislature shall remain~~
5 ~~in force and effect.]~~

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

- 10 (1) The governor declares a state of emergency; and
11 (2) The [department] corporation determines that the
12 waiver of landing fees and other charges for the
13 aircraft is consistent with assisting in the delivery
14 of humanitarian relief to disaster-stricken areas of
15 the State."

16 SECTION 12. On and after the transfer completion date
17 established by the Hawaii airports corporation in section 14(b)
18 of this Act, and until the revisor of statutes makes the
19 amendments to chapters 261, 261D, and 262, Hawaii Revised
20 Statutes, described in this section, every reference to the
21 department of transportation in chapters 261, 261D, and 262,



1 Hawaii Revised Statutes, shall be a reference to the Hawaii
2 airports corporation, and every reference to the director of
3 transportation in chapters 261, 261D, and 262, Hawaii Revised
4 Statutes, shall be a reference to the chief executive officer of
5 the Hawaii airports corporation. After the transfer completion
6 date but no later than when the subsequent supplements to the
7 Hawaii Revised Statutes are prepared, the revisor of statutes
8 shall substitute the phrase "chief executive officer" for the
9 terms "director" or "director of transportation", the term
10 "Hawaii airports corporation" for the term "department of
11 transportation", the term "corporation" for the term
12 "department", and shall delete the definition of "director", in
13 chapters 261, 261D, and 262, Hawaii Revised Statutes.

14 SECTION 13. The Hawaii airports corporation shall succeed
15 to the jurisdiction, powers, and responsibilities of the
16 department of transportation over aeronautics and airports,
17 including all of the functions relating to airports and
18 aeronautics performed by the department and its airports
19 division, on the transfer completion date published by the
20 Hawaii airports corporation pursuant to section 14(b) of this



1 Act, which date shall be no sooner than July 1, 2019, and no
2 later than July 1, 2021.

3 On the transfer completion date, the airports corporation
4 shall assume from the department of transportation:

5 (1) That:

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

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

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

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



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

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

9 SECTION 14. (a) Not prior to January 1, 2019, but no
10 later than September 30, 2019, the governor shall designate a
11 representative who shall facilitate the corporation's orderly
12 succession to the jurisdiction, powers, functions, rights,
13 benefits, obligations, assets, liabilities, funds, accounts,
14 contracts, and all other things currently held, used, incurred,
15 or performed by the department of transportation, its director
16 and staff, and its airports division, in exercising the
17 authority and fulfilling the responsibilities conferred upon the
18 department of transportation and the director of transportation,
19 by chapters 261, 261D, and 262, Hawaii Revised Statutes.



1 Not prior to October 1, 2019, but no later than December
2 31, 2019, the governor shall appoint the members of the board of
3 directors of the Hawaii airports corporation.

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

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



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



1 department of transportation, and other state
2 agencies;

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

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



1 transportation by chapters 261, 261D, and 262, Hawaii
2 Revised Statutes;

3 (7) Assign and transfer:

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

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

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



1 adoption of policies and procedures designed to
2 ensure continuing compliance with the terms
3 thereof for so long as they are applicable; and

4 (8) Reimburse each cooperating department or agency for
5 the cost of services provided under the memorandum of
6 understanding.

7 (b) As soon as feasible, the Hawaii airports corporation,
8 with the concurrence of the director of transportation and the
9 governor, shall establish the transfer completion date, which
10 shall be no sooner than July 1, 2019, and no later than July 1,
11 2021, and publish notice of the transfer completion date by:

12 (1) Publishing the notice in a daily publication of
13 statewide circulation pursuant to section 1-28.5,
14 Hawaii Revised Statutes;

15 (2) Posting a copy of the notice on an electronic calendar
16 on a website maintained by the State;

17 (3) Providing a copy of the notice to the department of
18 transportation, the Secretaries of the United States
19 Department of Transportation and Department of
20 Defense, the head of the Federal Aviation



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

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

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

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

17 SECTION 16. This Act does not affect rights and duties
18 that matured, penalties that were incurred, and proceedings that
19 were begun before its effective date. The department of
20 transportation shall be responsible for any and all obligations
21 incurred by the department or its airports division in



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



1 notes, or other obligations. On the transfer completion date,
2 the Hawaii airports corporation shall assume responsibility for
3 all rights, duties, penalties, and proceedings of the department
4 of transportation related to the State's airports system.

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



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

14 SECTION 18. The Hawaii airports corporation shall
15 recognize all bargaining units and collective bargaining
16 agreements existing at the time of transfer to the corporation.
17 All employees who occupy civil service positions and whose
18 functions are transferred to the Hawaii airports corporation by
19 this Act shall retain their civil service status, whether
20 permanent or temporary. The employees shall be transferred to
21 the corporation without loss of salary, seniority (except as



1 prescribed by applicable collective bargaining agreements),
2 retention points, prior service credits, any vacation and sick
3 leave credits previously earned, and other rights, benefits, and
4 privileges, in accordance with state personnel laws and this
5 Act; provided that the employees meet applicable requirements
6 for the class or position to which transferred or appointed, as
7 applicable.

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

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



1 No employee included in a collective bargaining unit as an
2 employee of the department of transportation shall be laid off
3 as a consequence of this Act.

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

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



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

4 SECTION 21. All deeds, executive orders, leases,
5 contracts, loans, agreements, permits, or other documents
6 executed or entered into by or on behalf of the department of
7 transportation, pursuant to the 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 the transfer completion date established pursuant to
11 section 14(b) of this Act, every reference to the department of
12 transportation in those deeds, executive orders, leases,
13 contracts, loans, agreements, permits or other documents shall
14 be construed as a reference to the Hawaii airports corporation
15 or the board of directors of the corporation.

16 SECTION 22. There is appropriated out of the airport
17 revenue fund the sum of \$ or so much thereof as may be
18 necessary for fiscal year 2018-2019, to effect the transfer of
19 functions from the department of transportation to the Hawaii
20 airports corporation required by this Act.



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

3 SECTION 23. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 24. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 25. This Act shall take effect on July 1, 2050;
12 provided that section 11 shall take effect upon the satisfaction
13 and discharge of:

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

18 (2) That certain Indenture of Trust dated as of
19 December 1, 2013, between the department of
20 transportation and U.S. Bank National Association; and



- 1 (3) All obligations issued and outstanding under the
- 2 Certificate and Indenture.



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 Airports Corporation. Transfers the aeronautics functions of Department of Transportation to the Hawaii Airports Corporation by the established transfer completion date agreed upon by the Hawaii Airports Corporation, the Director of Transportation, and the Governor, which shall be no later than 7/1/2021. Effective 7/1/2050. (SD2)

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

