

---

---

# A BILL FOR AN ACT

RELATING TO GOVERNMENT.

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

**PART I**

1  
2 SECTION 1. The legislature finds that the rail project for  
3 the City and County of Honolulu, as undertaken by the Honolulu  
4 authority for rapid transportation (authority), is the largest  
5 public works project in state history. However, the rail  
6 project has been plagued by cost overruns and delays. The  
7 legislature notes that the price tag for the project has risen  
8 from \$5,260,000,000 to over \$9,200,000,000, and is now six years  
9 behind the original schedule. The legislature approved a  
10 \$2,400,000,000 bailout in 2017, subject to the condition that  
11 the project be audited by the State and use of the state  
12 surcharge be limited to specific construction costs.

13 The legislature instructed the state auditor to audit the  
14 management and other aspects of the rail. The legislature also  
15 instructed the comptroller to ensure that requests for payment  
16 for capital costs incurred by the authority meet the criteria to



1 utilize the state surcharge specified in Act 1, Special Session  
2 Laws of Hawaii 2017 (Act 1).

3 The auditor has produced or is in the process of producing  
4 a number of reports, as part of the primary audit, which include  
5 the following:

6 (1) History of the project;

7 (2) Internal structure of the authority;

8 (3) Overview of the department of accounting and general  
9 services' process to ensure payments of the  
10 authority's invoices meet the criteria of Act 1; and

11 (4) The invoice processes for payments of invoices, to  
12 ensure consistency with contract terms.

13 However, the primary audit, which is intended to evaluate the  
14 project's internal controls to contain costs through the  
15 evaluation of the project change orders, has not been completed  
16 in its entirety. The auditor has yet to conduct an auditing  
17 sample of large contracts, including a construction control  
18 assessment and construction change order assessment. The  
19 auditor has also not completed an evaluation of the internal  
20 controls for cost and quality.



1           The oversight of the current invoices has been implemented  
2 through the joint efforts of the auditor and comptroller. The  
3 legislature acknowledges the need to avoid duplication of effort  
4 in the oversight duties of the comptroller and state auditor but  
5 believes that the completion of the audit is essential to  
6 control costs and alleviate the financial burden placed upon  
7 taxpayers.

8           The legislature further finds that in February 2019, the  
9 authority received three federal grand jury subpoenas. The  
10 legislature notes that the completion of the state audit of the  
11 authority is for the purpose of fulfilling the legislature's  
12 intent when passing Act 1, and is not intended to jeopardize or  
13 otherwise interfere in any way with the current federal  
14 investigation. The legislature believes that the audit  
15 originally contemplated and authorized by Act 1 can be completed  
16 separately from the federal investigation and can be  
17 accomplished in a manner that does not interfere with the  
18 current federal probe.

19           The purpose of this Act is to ensure continued  
20 accountability of the rail project as undertaken by the Honolulu  
21 authority for rapid transportation, including completion of the



1 state audit authorized by Act 1, while eliminating any  
2 duplication between the auditor and comptroller.

3 PART II

4 SECTION 2. Section 23-14, Hawaii Revised Statutes, is  
5 repealed.

6 ~~["§23-14] Rapid transportation authority, annual review.~~

7 ~~(a) Beginning on September 5, 2017, and ending on December 31,~~  
8 ~~2031, the auditor, on an annual basis, shall conduct a review of~~  
9 ~~any rapid transportation authority in the State charged with the~~  
10 ~~responsibility of constructing, operating, or maintaining a~~  
11 ~~locally preferred alternative for a mass transit project that~~  
12 ~~receives moneys from a surcharge on state tax established~~  
13 ~~pursuant to section 46-16.8, transient accommodations tax~~  
14 ~~revenues pursuant to section 237D-2(e), or both. The annual~~  
15 ~~review shall include a review of documents, including but not~~  
16 ~~limited to invoices, contracts, progress reports, and time~~  
17 ~~schedules, to determine that:~~

- 18 ~~(1) Expenditures by the authority comply with the criteria~~  
19 ~~established pursuant to section 46-16.8(e); and~~
- 20 ~~(2) The authority follows accounting best practices for~~  
21 ~~substantiating its expenditures.~~



1 ~~(b) A rapid transportation authority subject to this~~  
2 ~~section and any private company or agency contracted to provide~~  
3 ~~services for the locally preferred alternative for a mass~~  
4 ~~transit project shall cooperate with and assist the auditor as~~  
5 ~~needed in conducting the annual review, including promptly~~  
6 ~~providing all records and other information requested by the~~  
7 ~~auditor in the course of the annual review.~~

8 ~~(c) The auditor shall submit the findings and~~  
9 ~~recommendations of the auditor's review to the legislature and~~  
10 ~~the rapid transportation authority no later than twenty days~~  
11 ~~prior to the convening of the immediately following regular~~  
12 ~~session." ]~~

### 13 PART III

14 SECTION 3. The legislature finds that the state auditor  
15 needs more time to complete the audit of the Honolulu authority  
16 for rapid transportation, as authorized by section 11 of Act 1,  
17 Special Session Laws of Hawaii 2017 (Act 1). The legislature  
18 further finds that the audit is necessary to ensure fiscal  
19 accountability and sufficient oversight over the authority's  
20 internal controls for purposes of controlling future costs and  
21 sufficient quality assurance over the project.



1           The legislature acknowledges that the auditor has completed  
2 certain portions of the audit authorized by Act 1. The  
3 legislature believes that further specifying the direction and  
4 scope the auditor should take will better enable the auditor to  
5 complete the remainder of the Act 1 audit.

6           Accordingly, the purpose of this part is to provide the  
7 office of the auditor with specific direction and scope to  
8 complete the audit of the Honolulu authority for rapid  
9 transportation, as well as funding needed to complete the audit.

10           SECTION 4. (a) The state auditor shall continue the audit  
11 of the Honolulu authority for rapid transportation authorized by  
12 Act 1, Special Session Laws of Hawaii 2017.

13           (b) When completing the audit, the state auditor shall  
14 examine the scope of services of the audit, including an  
15 analysis of the construction management of the Honolulu  
16 authority for rapid transportation. The analysis shall include  
17 but not be limited to:

18           (1) An assessment of all the oral and written processes,  
19                procedures, polices, practices, internal controls, and  
20                cost controls associated with the Honolulu authority



1 for rapid transportation's management of the Honolulu  
2 rail transit project; and

3 (2) An evaluation of change orders as identified by the  
4 state auditor, including but not limited to an  
5 assessment of expenditures and payments to  
6 contractors, subcontractors, and consultants, for the  
7 time periods identified by the state auditor.

8 (c) If the state auditor determines that engaging a  
9 contractor to perform portions of the audit is required, the  
10 contractor shall pursue its scope of work and prepare a report  
11 in a manner and format that is satisfactory to and approved by  
12 the state auditor. Prior to commencement, the contractor shall  
13 review its scope of work and subsequently prepare and discuss  
14 the contractor's proposed plan to complete its scope of work,  
15 which shall be approved by the state auditor prior to commencing  
16 examination. Thereafter, the contractor shall report its  
17 progress to the state auditor as frequently as required by the  
18 state auditor. The audit examination time period shall be  
19 determined by the state auditor.

20 (d) To effectuate the purpose of this section, the state  
21 auditor shall have all the powers established pursuant to



1 chapter 23, Hawaii Revised Statutes, including the power to  
2 subpoena the production of any documents from the Honolulu  
3 authority for rapid transportation that may be necessary to  
4 complete the audit required by this section.

5 (e) The state auditor shall submit an interim report of  
6 the auditor's preliminary findings and progress made on the  
7 audit to the legislature, director of finance, and board of  
8 directors of the Honolulu authority for rapid transportation no  
9 later than twenty days prior to the convening of the regular  
10 session of 2020.

11 (f) The state auditor shall submit a final report of the  
12 auditor's findings and recommendations to the legislature,  
13 director of finance, and board of directors of the Honolulu  
14 authority for rapid transportation no later than twenty days  
15 prior to the convening of the regular session of 2021.

16 SECTION 5. There is appropriated out of the general  
17 revenues of the State of Hawaii the sum of \$ or so  
18 much thereof as may be necessary for fiscal year 2019-2020 and  
19 the same sum or so much thereof as may be necessary for fiscal  
20 year 2020-2021 for the auditor to conduct an audit of the  
21 Honolulu authority for rapid transportation.





1 The sums appropriated shall be expended by the office of  
2 the auditor for the purposes of this Act.

3 PART IV

4 SECTION 6. Section 40-81.5, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 " ~~§~~40-81.5 ~~§~~ Rapid transportation authority;  
7 certification statement. (a) Beginning on September 5, 2017,  
8 and ending on December 31, 2031, the comptroller, upon the  
9 request for payment by the rapid transportation authority, shall  
10 verify that the authority's invoices for the capital costs of a  
11 locally preferred alternative for a mass transit project comply  
12 with section 46-16.8(e).

13 (b) The rapid transportation authority subject to this  
14 section shall provide the comptroller with:

- 15 (1) The authority's financial plan and related systems for  
16 accounting, including a budget for a locally preferred  
17 alternative for a mass transit project;
- 18 (2) Expenditures for capital costs for a locally preferred  
19 alternative for a mass transit project;

1 (3) Expenditures for personnel costs, lease rent, and any  
2 other costs associated with the authority's management  
3 and operations; and

4 (4) Any other information the comptroller may require to  
5 accomplish the purpose of this section.

6 (c) After submission of invoices by the rapid  
7 transportation authority for capital costs of a locally  
8 preferred alternative for a mass transit project are verified by  
9 the comptroller as an acceptable use of funds received pursuant  
10 to a surcharge on state tax authorized pursuant to section  
11 46-16.8, the comptroller shall submit a certification statement,  
12 including any appropriate supporting documents, to the  
13 department of budget and finance for the allocation of funds, if  
14 available, pursuant to sections 248-2.7 and 248-2.6(d). The  
15 certification statement shall include, at a minimum, the total  
16 amount contained in the invoices for capital costs that are  
17 verified as an appropriate use of funds pursuant to section  
18 46-16.8(e).

19 (d) The comptroller may establish rules, exempt from  
20 chapter 91, for the purposes of this section.



1       (e) The comptroller shall withhold any vendor contracts  
2 reimbursements until the state auditor has received from any  
3 applicable party that was requested to submit documents to the  
4 state auditor that pertain to the reimbursement request,  
5 including but not limited to the documents requested pursuant to  
6 the auditor's subpoena powers pursuant to section 23-5 or any  
7 other law.

8       [~~(e)~~] (f) For the purposes of this section, "rapid  
9 transportation authority" means any entity established by a  
10 county in the State for the purpose of constructing, operating,  
11 or maintaining a locally preferred alternative for a mass  
12 transit project and that receives moneys from a surcharge on  
13 state tax established pursuant to section 46-16.8, transient  
14 accommodations tax revenues pursuant to section 237D-2(e), or  
15 both."

**PART V**

17       SECTION 7. Act 1, Special Session Laws of Hawaii 2017, is  
18 amended by repealing section 18.

19       ~~["SECTION 18. Notwithstanding any law, charter provision,~~  
20 ~~or ordinance to the contrary, in any county with a population~~  
21 ~~greater than five hundred thousand, in order to ensure the~~



1 ~~appropriate use of state authorized funds to finance a locally~~  
2 ~~preferred alternative for a mass transit project, the president~~  
3 ~~of the senate and speaker of the house of representatives shall~~  
4 ~~each appoint two non voting, ex officio members to the board of~~  
5 ~~directors of the county's rapid transportation authority. The~~  
6 ~~terms for each member appointed pursuant to this section shall~~  
7 ~~be determined by the presiding officer who appointed them.~~

8 ~~For the purposes of this section, "county rapid~~  
9 ~~transportation authority" means any entity established by a~~  
10 ~~county in the State with a population greater than five hundred~~  
11 ~~thousand for the purpose of constructing, operating, or~~  
12 ~~maintaining a locally preferred alternative for a mass transit~~  
13 ~~project and that receives moneys from a surcharge on state tax~~  
14 ~~established pursuant to section 46-16.8, Hawaii Revised~~  
15 ~~Statutes, transient accommodations tax revenues pursuant to~~  
16 ~~section 237D-2(c), Hawaii Revised Statutes, or both." ]~~

17 **PART VI**

18 SECTION 8. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 9. This Act shall take effect upon its approval;  
21 provided that section 5 shall take effect on July 1, 2019.



**Report Title:**

Auditor; Rapid Transportation Authority; Annual Review; Repeal;  
Comptroller; Appropriation

**Description:**

Repeals the requirement that the state auditor conduct an annual review of certain rapid transit authorities in the State. Provides the auditor with specific direction and scope to complete the audit authorized by Act 1, SSLH 2017. Appropriates funds for the auditor to complete an audit of the Honolulu authority for rapid transportation. Requires the comptroller to withhold vendor contracts reimbursement until the auditor has received all documents that pertain to the reimbursement request. Repeals appointment of two non-voting ex-officio members to the board of directors of the county's rapid transportation authority authorized by Act 1, SSLH 2017. (SD1)

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

