



GOV. MSG. NO. **842**

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 20, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 20, 2008, the following bill was signed into law:

SB3227 SD2 HD1 CD1

A BILL FOR AN ACT RELATING TO HARBORS.
(ACT 200)

Sincerely,


LINDA LINGLE

1 because the industry recognized that Hawaii is facing a shortage
2 of port facilities statewide. Its goal is to help the State
3 identify and prioritize Hawaii's harbor improvement needs. The
4 Hawaii Harbors Users Group has completed research that predicts
5 that if Hawaii's harbor infrastructure is not improved, the loss
6 of real domestic product (in 2007 dollars) could amount to more
7 than \$50,000,000,000 by the year 2030. In comparison, an
8 assessment of immediate commercial harbor needs statewide is
9 estimated to cost in the range of \$850,000,000.

10 Under its statutory mandate, the harbors division focuses
11 on essential daily management and operations of the commercial
12 harbor system rather than development of new expansion
13 opportunities. To expeditiously develop critically needed
14 harbor infrastructure improvements and curtail statewide
15 economic hardships that will occur if the harbors reach maximum
16 cargo handling capacity by the year 2011 as currently projected,
17 the harbors division partnered with Aloha Tower development
18 corporation, an entity with a development-oriented mission,
19 statutory powers, and expertise in the development of state-
20 owned properties for development of Honolulu harbor pursuant to
21 this Act.



1 The harbors division is additionally stymied by the lack of
2 funding necessary to develop costly wharves and cargo handling
3 terminals and its traditional structure limits its ability to
4 consider development-oriented financing options such as public
5 or private partnerships, but the Aloha Tower development
6 corporation is empowered to do such things. A partnership with
7 the Aloha Tower development corporation, which has jurisdiction
8 over a portion of Honolulu harbor, can also assist the harbors
9 division by providing financial support from its limited
10 commercial development along the downtown urban waterfront.
11 Revenues generated from commercial development are proposed to
12 be directed toward the funding of commercial harbor system
13 infrastructure improvements.

14 The legislature, together with the administration and key
15 harbor users, recognizes that extraordinary means must be
16 employed to catch up on deferred harbor infrastructure
17 development. Accordingly, the legislature finds that the
18 harbors division should be given further development tools to
19 accomplish the formidable task of bringing the State's
20 commercial harbors up to the standards needed to sustain
21 economic growth. The purpose of this Act is to expand the
22 formal partnership for development of Honolulu harbor between



1 the Aloha Tower development corporation and the department of
2 transportation harbors division to a statewide jurisdiction for
3 the implementation of the commercial harbors modernization plan.

4 SECTION 2. Section 171-59, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) Disposition of public lands for airline, aircraft,
7 airport-related, agricultural processing, cattle feed
8 production, aquaculture, marine, maritime, and maritime-related
9 operations may be negotiated without regard to the limitations
10 set forth in subsection (a) and section 171-16(c); provided
11 that:

12 (1) The disposition encourages competition within the
13 aeronautical, airport-related, agricultural,
14 aquaculture, maritime, and maritime-related
15 [~~industries~~] operations;

16 (2) The disposition shall not exceed a maximum term of
17 thirty-five years [~~and~~], except in the case of
18 maritime and maritime-related operations, which may
19 provide for a maximum term of seventy years; and

20 (3) The method of disposition of public lands for cattle
21 feed production as set forth in this subsection shall
22 not apply after December 31, 1988.



1 For the [~~purpose~~] purposes of this subsection:

2 [~~"agricultural processing"~~] "Agricultural processing" means
3 the processing of agricultural products, including dairying,
4 grown, raised, or produced in Hawaii [~~,"airport-related"~~].

5 "Airport-related" means a purpose or activity that requires
6 air transportation to achieve that purpose or activity [~~,"and~~
7 ~~"maritime-related"~~].

8 "Maritime-related" means a purpose or activity that
9 requires and is directly related to the loading, off-loading,
10 storage, or distribution of goods and services of the maritime
11 industry."

12 SECTION 3. Section 206J-2, Hawaii Revised Statutes, is
13 amended by amending the definition of "development corporation"
14 to read as follows:

15 "Development corporation" means the Aloha Tower
16 [~~Development Corporation~~] development corporation established by
17 section 206J-4."

18 SECTION 4. Section 206J-4, Hawaii Revised Statutes, is
19 amended by amending its title and subsections (a) and (b) to
20 read as follows:

21 **"§206J-4 Aloha Tower [~~Development Corporation~~]**
22 **development corporation; established.** (a) There is established



1 the Aloha Tower [~~Development Corporation,~~] development
2 corporation, which shall be a public body corporate and politic,
3 a public instrumentality, and an agency of the State. The
4 development corporation shall be placed within the department of
5 business, economic development, and tourism for administrative
6 purposes, pursuant to section 26-35.

7 (b) [~~The~~] Except as provided in section 206J-5.5, the
8 development corporation shall consist of a board of directors
9 having seven voting members. The director of business, economic
10 development, and tourism, the director of transportation, the
11 chairperson of the board of land and natural resources, and the
12 mayor of the city and county of Honolulu, or their respective
13 designated representatives, shall serve as ex officio voting
14 members. Three members from the public at large shall be
15 appointed by the governor for staggered terms pursuant to
16 section 26-34 and shall also serve as voting members; provided
17 that no public member shall be an officer or employee of the
18 State or its political subdivisions. All members shall continue
19 in office until their respective successors have been appointed.
20 The board, by a majority vote, shall elect a chairperson from
21 within its membership."



1 SECTION 5. Section 206J-5.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[§]206J-5.5[§]~~ Partnership with department of
4 transportation for ~~[Honolulu harbor,]~~ the implementation of the
5 commercial harbors modernization plan and the establishment of
6 the harbors modernization group. (a) Consistent with its
7 general powers under this chapter, the development corporation
8 ~~[may]~~ shall establish a subgroup called the harbors
9 modernization group to undertake projects for [Honolulu harbor
10 and its adjacent lands,] the commercial harbors modernization
11 plan in subsection (b), which are under the jurisdiction of the
12 department of transportation. Notwithstanding any provision in
13 section 206J-17 to the contrary, payments to the development
14 corporation for its administrative and operational expenses
15 shall be made by the department of transportation and deposited
16 into the Aloha Tower fund in a subaccount designated for ~~[the~~
17 ~~particular development project.]~~ commercial harbors
18 modernization plan projects. The department of transportation
19 shall delegate to the development corporation the implementation
20 of commercial harbors modernization plan projects. All
21 projects, prior to implementation by the development
22 corporation, shall be approved by the director of transportation



1 and the governor. After approval by the director of
2 transportation and the governor, the expending authority for the
3 approved projects shall be delegated to the development
4 corporation.

5 ~~[(b) All appropriations for the development of Honolulu~~
6 ~~harbor by the development corporation shall be received and~~
7 ~~administered by the department of transportation. The department~~
8 ~~of transportation shall retain fiscal management and oversight~~
9 ~~of all project cost expenditures, budget, and contract~~
10 ~~approvals.]~~

11 (b) The harbors modernization group shall have
12 jurisdiction over harbors projects that shall collectively be
13 known as the commercial harbors modernization plan. These
14 harbor projects shall be as follows:

- 15 (1) Honolulu harbor. Development of infrastructure,
16 expansion of facilities, and tenant relocations,
17 including the development of the new Kapalama
18 container terminal;
- 19 (2) Kahului harbor. Development of infrastructure,
20 expansion of facilities, tenant relocations, and
21 acquisition of lands, including the West harbor barge
22 or ferry slip or both, West harbor dredging and



- 1 breakwater, West harbor cruise terminal, Pier 1 fuel
2 line replacement and upgrade, East harbor breakwater,
3 and Pier 2B strengthening;
- 4 (3) Hana Harbor. Development of infrastructure,
5 demolition, as necessary, and expansion of facilities
6 and acquisition of lands;
- 7 (4) Hilo harbor. Development of infrastructure, expansion
8 of facilities, tenant relocations, and acquisition of
9 lands, including the Pier 4 interisland cargo
10 terminal;
- 11 (5) Kawaihae harbor. Development of infrastructure,
12 expansion of facilities, tenant relocations,
13 acquisition of lands, including the Pier 2 terminal
14 and barge improvements, Pier 2 extension and terminal,
15 and Pier 4 and liquid bulk terminals;
- 16 (6) Kalaeloa harbor. Development of infrastructure,
17 expansion of facilities, tenant relocations, and
18 acquisition of lands, including the West harbor
19 infrastructure, Pier 4 dedicated fuel pier, and
20 extension of the fuel line; and
- 21 (7) Nawiliwili harbor. Development of infrastructure,
22 expansion of facilities, tenant relocations, and



1 acquisition of lands, including the new multi-use
2 pier.

3 (c) For the purposes of this section, the chief executive
4 officer shall have the power to appoint officers, agents, and
5 employees, prescribe their duties and qualifications, and fix
6 their salaries, without regard to chapter 76.

7 (d) Land disposition matters in projects identified in the
8 commercial harbors modernization plan, including land
9 acquisition, leasing, and conveyance, and acquisition of
10 easements or rights-of-ways, shall continue to be under the
11 jurisdiction of the board of land and natural resources pursuant
12 to chapter 171.

13 (e) The harbors modernization group, when acting pursuant
14 to subsection (f), shall retain all the powers of the
15 development corporation under sections 206J-5 to 206J-21.

16 (f) Except as otherwise provided in this subsection, the
17 harbors modernization group shall be comprised of six voting
18 members appointed by the governor to the development corporation
19 in addition to those members appointed under section 206J-4(b),
20 and pursuant to section 26-34.

21 The harbors modernization group shall consist of:



1 (1) The director of budget and finance, or a designated
2 representative, who shall serve as an ex officio
3 voting member;

4 (2) Two public members from the maritime industry who
5 shall be directly involved with a harbor or off-shore
6 mooring facility that is primarily for the movement of
7 commercial cargo, passenger, and fishing vessels
8 entering, leaving, or traveling within the state
9 harbor system, or directly involved with an activity
10 that requires and is directly related to the loading,
11 off-loading, storage, or distribution of goods and
12 services by means of seaborne transportation; and

13 (3) The mayors of the counties of Hawaii, Maui, and Kauai,
14 or their designated representatives, who shall serve
15 as ex officio voting members.

16 The members of the harbors modernization group shall serve
17 for four year terms and shall continue in office until their
18 respective successors have been appointed. The chairperson of
19 the corporation board shall serve as the chairperson of the
20 harbors modernization group.

21 The members of the harbors modernization group shall act
22 and be counted in determining quorum and majority for



1 development corporation actions only with respect to directing
2 the planning, design, construction, and financing of the harbor
3 projects identified in the commercial harbors modernization
4 plan. A majority of members of the development corporation and
5 four of the six members of the harbor modernization group shall
6 constitute quorum for matters relating to directing the
7 planning, design, construction, and financing of the harbor
8 projects identified in the commercial harbors modernization
9 plan. A majority of the voting members of the quorum shall be
10 required to validate any act relating to the harbor projects.
11 These members shall serve without compensation, but each member
12 shall be reimbursed for expenses, including travel expenses,
13 incurred in the performance of their duties.

14 [4e] (g) Subject to existing contractual and statutory
15 commitments to the department of transportation for any losses
16 in revenue under this chapter, the development corporation may
17 apply any revenues derived from commercial development projects
18 in the Aloha Tower project area to defray the cost of harbor
19 infrastructure improvements incurred within the [~~State-~~] state."

20 SECTION 6. The department of transportation is authorized
21 to issue harbor revenue bonds for harbor capital improvement
22 projects authorized in section 7 of this Act and designated to



1 be financed by revenue bond funds or by general obligation bond
2 funds with debt service cost to be paid from special funds, in
3 such principal amount as shall be required to yield the amounts
4 appropriated for such capital improvement program projects, and,
5 if so determined by the department and approved by the governor,
6 such additional amounts as may be deemed necessary by the
7 department to pay interest on such revenue bonds during the
8 estimated construction period of the capital improvement project
9 for which such harbor revenue bonds are issued to establish,
10 maintain, or increase reserves for the harbor revenue bonds or
11 harbor revenue bonds heretofore authorized (whether authorized
12 and issued or authorized and still unissued), and to pay the
13 expenses of issuance of such bonds. The aforementioned harbor
14 revenue bonds shall be issued pursuant to the provisions of part
15 III of chapter 39, Hawaii Revised Statutes, as the same may be
16 amended from time to time. The principal of and interest on
17 harbor revenue bonds, to the extent not paid from the proceeds
18 of such bonds, shall be payable solely from and secured solely
19 by the revenues derived from harbors and related facilities
20 under the ownership of the State or operated and managed by the
21 department, including rents, mooring, wharfage, dockage,
22 pilotage fees, and other fees or charges presently or hereafter



1 derived from or arising through the ownership, operation, and
2 management of harbor and related facilities and the furnishing
3 and supplying of the services thereof. The expenses of the
4 issuance of such harbor revenue bonds shall, to the extent not
5 paid from the proceeds of such bonds, be paid from the harbor
6 special fund.

7 The governor, in the governor's discretion, is authorized
8 to use the harbor revenue fund to finance those projects
9 authorized in section 7 of this Act where the method of
10 financing is designated to be by harbor revenue bond funds.

11 SECTION 7. The following sum, or so much thereof as may be
12 sufficient to accomplish the purposes designated herein, are
13 hereby appropriated or authorized, as the case may be, from the
14 harbor revenue bond funds for the fiscal years beginning July 1,
15 2008, and ending June 30, 2012, and all intervening fiscal
16 years. The sum appropriated shall be expended by the department
17 of transportation for the purposes of this Act. The department
18 of transportation, as expending agency, shall delegate to the
19 Aloha Tower development corporation the implementation of the
20 capital improvement projects authorized in this Act and
21 subsequent acts, for the projects identified as the commercial
22 harbors modernization plan described in chapter 206J, Hawaii



1 Revised Statutes. After approval of the project by the director
2 of transportation and the governor, the expending authority for
3 the approved projects shall be delegated to the Aloha Tower
4 development corporation. The authorized capital improvement
5 projects are:

- 6 1. HMP - Kapalama military reservation improvements,
7 Honolulu harbor, Oahu
8 Design and construction for the development of a new
9 container terminal facility.
- 10 2. HMP - Kalaeloa Barbers Point harbor infrastructure
11 improvements, Oahu
12 Design of utility and infrastructure improvements.
- 13 3. HMP - Kalaeloa Barbers Point harbor fuel pier
14 improvements, Oahu
15 Design of new fuel pier and other site-related
16 improvements.
- 17 4. HMP - Pier 4 interisland cargo terminal, Hilo harbor,
18 Hawaii
19 Design of additional interisland cargo terminal areas
20 including a pier, yard, roadways, and utilities.
- 21 5. HMP - Kahului harbor land acquisition and
22 improvements, Maui



- 1 Purchase of additional land and subsequent design of
2 improvements for the acquired land.
- 3 6. HMP - Hana harbor, Maui
4 Development of infrastructure, demolition, as
5 necessary, and expansion of facilities
6 Total funding \$20,000,000
- 7 7. HMP - West harbor barge/ferry slip, Kahului harbor,
8 Maui
9 Design for a new West harbor barge/ferry slip and
10 associated site work improvements.
- 11 8. HMP - West harbor dredging and breakwater, Kahului
12 harbor, Maui
13 Design for West harbor breakwater, dredging, and
14 associated improvements.
- 15 9. HMP - West harbor cruise terminal, Kahului harbor,
16 Maui
17 Design of a cruise terminal including paving,
18 utilities, security, and other site work improvements.
- 19 10. HMP - East harbor breakwater, Kahului harbor, Maui
20 Design of the East harbor breakwater and related
21 improvements.
- 22 11. HMP - Pier 2 improvements, Kahului harbor, Maui



- 1 Design of improvements to the pier, including
2 strengthening, bollard replacement, dredging, and
3 environmental permitting.
- 4 12. HMP - Kawaihae harbor development plan, Hawaii
5 Development plan for improving new terminal cargo
6 facilities at Kawaihae harbor.
- 7 13. HMP - Pier 2 terminal improvements, Kawaihae harbor,
8 Hawaii
9 Design and construction of terminal improvements,
10 including paving, utilities, relocation of the harbor
11 agent's office, and interim ferry improvements.
- 12 14. HMP - Pier 4, Kawaihae harbor, Hawaii
13 Design of a multi-user pier 4 and associated site
14 work.
- 15 15. HMP - Multi-user pier 4, Nawiliwili harbor
16 Design of new pier improvements and related site and
17 utility work.
- 18 16. HMP - Construction management support, statewide
19 Construction consultant services during construction
20 of harbors modernization plan projects at harbor
21 facilities statewide.



1 17. HMP - Harbors division capital improvement program
2 staff cost, statewide
3 Costs related to wages and fringe benefits for
4 permanent harbors modernization plan project-funded
5 positions.

6 The appropriations made for capital improvement projects
7 authorized by this Act shall not lapse unless unencumbered as of
8 June 30, 2012. All appropriations which are unencumbered as of
9 June 30, 2012, shall lapse as of that date.

10 PART II

11 SECTION 8. Chapter 266, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§266- Hana harbor; jurisdiction. Notwithstanding any
15 law to the contrary, the department of transportation shall have
16 jurisdiction and administrative authority over Hana harbor,
17 excluding its small boat ramp facility. The Hana harbor small
18 boat ramp facility shall remain under the jurisdiction and
19 administrative authority of the department of land and natural
20 resources."

21 SECTION 9. All appropriations, records, equipment,
22 machines, files, supplies, contracts, books, papers, documents,



1 maps, and other personal property heretofore made, used,
2 acquired, or held by the department of land and natural
3 resources relating to the functions transferred to the
4 department of transportation shall be transferred with the
5 functions to which they relate.

6 SECTION 10. The jurisdiction, functions, powers, duties,
7 and authority exercised by the department of land and natural
8 resources pursuant to chapter 200, Hawaii Revised Statutes,
9 relating to the Hana harbor, excluding its small boat ramp
10 facility, shall be transferred to and conferred upon the
11 department of transportation by this Act and shall be performed
12 and enforced in the same manner as previously authorized,
13 entitled, or obligated except as otherwise authorized, directed,
14 or instructed by this Act.

15 The department of transportation shall succeed to all of
16 the rights and powers previously exercised, and all of the
17 duties and obligations incurred, by the department of land and
18 natural resources in the exercise of the functions, powers,
19 duties, and authority transferred, whether such functions,
20 powers, duties, and authority are mentioned in or granted in any
21 law, contract, or other document.



1 All rules, policies, procedures, guidelines, and other
2 material adopted or developed by the department of land and
3 natural resources to implement the provisions of the Hawaii
4 Revised Statutes which are reenacted or made applicable to the
5 department of transportation by this Act, shall remain in full
6 force and effect until amended or repealed by the department of
7 transportation pursuant to chapter 91, Hawaii Revised Statutes.
8 In the interim, every reference to the department of land and
9 natural resources or chairperson of the board of land and
10 natural resources in those rules, policies, procedures,
11 guidelines, and other material is amended to refer to the
12 department of transportation or director of transportation as
13 appropriate.

14 All deeds, leases, contracts, loans, agreements, permits,
15 or other documents executed or entered into by or on behalf of
16 the department of land and natural resources pursuant to the
17 provisions of the Hawaii Revised Statutes, which are reenacted
18 or made applicable to the department of transportation by this
19 Act, shall remain in full force and effect. Every reference to
20 the department of land and natural resources or the chairperson
21 of the board of land and natural resources therein shall be



1 construed as a reference to the department of transportation or
2 the director of transportation as appropriate.

3 SECTION 11. All executive orders, revocable permits,
4 easements, and rights of entry for the use of state lands issued
5 and granted to the department of land and natural resources for
6 use in connection with Hana harbor, excluding its small boat
7 ramp facility, shall be withdrawn or terminated and appropriate
8 land disposition for use in connection with Hana harbor,
9 excluding its small boat ramp facility, shall be made by the
10 department of transportation, as appropriate, subsequent to the
11 transfer of Hana harbor, excluding its small boat ramp facility,
12 to the department of transportation.

13 SECTION 12. All acts passed by the legislature during this
14 regular session of 2008, whether enacted before or after the
15 effective date of this Act shall be amended to conform to this
16 Act unless such acts specifically provide that this Act is being
17 amended.

18 SECTION 13. This Act shall be liberally construed in order
19 to accomplish the purposes set forth herein.

20 PART III

21 SECTION 14. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



1 SECTION 15. This Act shall take effect on July 1, 2008;
2 provided that:

3 (1) The amendments to section 206J-5.5, Hawaii Revised
4 Statutes, in section 5 of this Act shall be repealed
5 on June 30, 2016, and section 206J-5.5, Hawaii Revised
6 Statutes, shall be reenacted in the form in which it
7 read on the day before the effective date of this Act;
8 and

9 (2) On June 30, 2016, any moneys or funds under the
10 management of the harbors modernization group pursuant
11 to section 206J-5.5, Hawaii Revised Statutes, shall be
12 deposited into the department of transportation harbor
13 special fund.

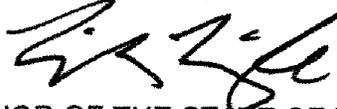


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4 Statutes, in section 5 of this Act shall be repealed
5 on June 30, 2016, and section 206J-5.5, Hawaii Revised
6 Statutes, shall be reenacted in the form in which it
7 read on the day before the effective date of this Act;
8 and

9 (2) On June 30, 2016, any moneys or funds under the
10 management of the harbors modernization group pursuant
11 to section 206J-5.5, Hawaii Revised Statutes, shall be
12 deposited into the department of transportation harbor
13 special fund.

APPROVED this 20 day of JUN, 2008



GOVERNOR OF THE STATE OF HAWAII



