
A BILL FOR AN ACT

RELATING TO HARBORS.

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

PART I

1
2 SECTION 1. Act 127, Session Laws of Hawaii 2007, is
3 amended by amending section 1 to read as follows:

4 "SECTION 1. To meet the economic needs of the [~~state~~]
5 State, the harbors division of the department of transportation
6 must provide suitable harbor facilities[~~]~~ and berthing piers,
7 which in turn ensures the efficient and timely delivery and
8 shipment of goods imported into the [~~state~~.] State. Ocean
9 surface transportation is the State's lifeline. It remains the
10 only viable means to service the lion's share of Hawaii's
11 economic needs. However, Hawaii's aging commercial harbor
12 system has not kept pace with our growing economy, and Hawaii's
13 commercial ports statewide are experiencing competition for
14 berthing rights for cargo, fuel, and cruise ship activities and
15 severe congestion in harbor facilities. It is recognized by the
16 harbor users, state administration, and the legislature that it
17 is now extremely critical to upgrade existing port facilities



1 and develop harbor improvements in an expedited manner. The
2 Hawaii harbor users group, a maritime transportation industry
3 group, was formed in 2005 because the industry recognized that
4 Hawaii is facing a shortage of port facilities statewide. Its
5 goal is to help the State identify and prioritize Hawaii's
6 harbor improvement needs. The Hawaii harbor users group has
7 completed research that predicts that if Hawaii's harbor
8 infrastructure is not improved, the loss of real domestic
9 product (in 2007 dollars) could amount to more than
10 \$50,000,000,000 by the year 2030. In comparison, an assessment
11 of immediate commercial harbor needs statewide is estimated to
12 cost in the range of \$850,000,000.

13 Under its statutory mandate, the harbors [~~division's focus~~
14 ~~is on~~] division focuses on essential daily management and
15 operations of the commercial harbor system rather than
16 development of new expansion opportunities. To expeditiously
17 develop critically needed harbor infrastructure improvements and
18 curtail statewide economic hardships that will occur if the
19 harbors reach maximum cargo handling capacity by the year 2011
20 as currently projected, the harbors division [~~desires to~~
21 ~~partner~~] partnered with Aloha Tower development corporation, an
22 entity with a development-oriented mission, statutory powers,



1 and expertise in the development of state-owned properties[-],
2 for development of Honolulu harbor pursuant to this Act.

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

17 In consideration of the recognition by the key harbor
18 users, the administration, and the legislature that
19 extraordinary means must be employed to catch up on deferred
20 harbor infrastructure development, the legislature finds that
21 the harbors division should be given further development tools
22 to accomplish the formidable task of bringing the State's



1 commercial harbors up to the standards needed to sustain
2 economic growth.

3 The purpose of this Act is to [~~establish a~~] expand the
4 formal partnership for the development of Honolulu harbor
5 between the Aloha Tower development corporation and the
6 department of transportation harbors division to a statewide
7 jurisdiction for the [~~development of Honolulu harbor~~
8 ~~infrastructure improvement projects.~~] implementation of the
9 commercial harbors modernization plan."

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

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

18 (1) The disposition encourages competition within the
19 aeronautical, airport-related, agricultural,
20 aquaculture, maritime, and maritime-related
21 industries;



1 (2) The disposition shall not exceed a maximum term of
2 thirty-five years[+], except in the case of the
3 maritime and maritime-related operations, which may
4 provide for a maximum term of seventy years; and

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

8 For the purpose of this subsection: "agricultural processing"
9 means the processing of agricultural products, including
10 dairying, grown, raised, or produced in Hawaii[+]; "airport-
11 related" means a purpose or activity that requires air
12 transportation to achieve that purpose or activity[+]; and
13 "maritime-related" means a purpose or activity that requires and
14 is directly related to the loading, off-loading, storage, or
15 distribution of goods and services of the maritime industry."

16 SECTION 3. Section 206J-2, Hawaii Revised Statutes, is
17 amended by adding a new definition to be appropriately inserted
18 and to read as follows:

19 "Maritime industry" means that the member of the
20 development corporation board or harbors modernization group
21 board designated as from the maritime industry is directly
22 involved with a harbor or off-shore mooring facility that is



1 primarily for the movement of commercial cargo, passenger, and
 2 fishing vessels entering, leaving, or traveling within the state
 3 harbor system, or directly involved with an activity that
 4 requires and is directly related to the loading, off-loading,
 5 storage, or distribution of goods and services by means of
 6 seaborne transportation."

7 SECTION 4. Section 206J-5.5, Hawaii Revised Statutes, is
 8 amended to read as follows:

9 " ~~[+]§206J-5.5[+]~~ **Partnership with department of**
 10 **transportation for ~~[Honolulu harbor,]~~ the implementation of the**
 11 **commercial harbors modernization plan and the establishment of**
 12 **the harbors modernization group.** (a) Consistent with its
 13 general powers under this chapter, the development corporation
 14 ~~[may]~~ shall establish a subgroup called the harbors
 15 modernization group to undertake projects for ~~[Honolulu harbor~~
 16 ~~and its adjacent lands,]~~ the commercial harbors modernization
 17 plan under subsection (b), which are under the jurisdiction of
 18 the department of transportation. Notwithstanding any provision
 19 in section 206J-17 to the contrary, payments to the development
 20 corporation for its administrative and operational expenses
 21 shall be made by the department of transportation and deposited



1 into the Aloha Tower fund in a subaccount designated for [the
2 ~~particular development project.~~

3 ~~(b) All appropriations for the development of Honolulu~~
4 ~~harbor by the development corporation shall be received and~~
5 ~~administered by the department of transportation. The~~
6 ~~department of transportation shall retain fiscal management and~~
7 ~~oversight of all project cost expenditures, budget, and contract~~
8 ~~approvals.] commercial harbors modernization plan projects. The~~
9 ~~department of transportation shall delegate to the development~~
10 ~~corporation the implementation of commercial harbors~~
11 ~~modernization plan projects. All projects, prior to~~
12 ~~implementation by the development corporation, shall be approved~~
13 ~~by the director of transportation and the governor. After~~
14 ~~approval by the director of transportation and the governor,~~
15 ~~expending authority for the approved projects shall be delegated~~
16 ~~to the development corporation.~~

17 (b) The harbors modernization group shall have
18 jurisdiction over the harbors projects listed below that shall
19 be known as the commercial harbors modernization plan
20 collectively:

21 (1) Honolulu harbor. Development of infrastructure,
22 expansion of facilities and tenant relocations,



1 including but not limited to, the development of the
2 new Kapalama container terminal;

3 (2) Kahului harbor. Development of infrastructure,
4 expansion of facilities, tenant relocations,
5 acquisition of lands, including but not limited to,
6 west harbor barge-ferry slip, west harbor dredging and
7 breakwater, west harbor cruise terminal, pier 1 fuel
8 line replacement-upgrade, east harbor breakwater, and
9 pier 2b strengthening;

10 (3) Hana harbor. Development of infrastructure,
11 demolition, as necessary, and expansion of facilities,
12 acquisition of lands;

13 (4) Hilo harbor. Development of infrastructure, expansion
14 of facilities, tenant relocations, acquisition of
15 lands, including but not limited to, pier 4
16 interisland cargo terminal;

17 (5) Kawaihae harbor. Development of infrastructure,
18 expansion of facilities, tenant relocations,
19 acquisition of lands, including but not limited to,
20 pier 2 terminal and barge improvements, pier 2
21 extension and terminal, pier 4 and liquid bulk
22 terminals;



1 (6) Kalaeloa harbor. Development of infrastructure,
2 expansion of facilities, tenant relocations,
3 acquisition of lands, including but not limited to,
4 west harbor infrastructure, pier 4 dedicated fuel
5 pier, and extension of fuel line; and

6 (7) Nawiliwili harbor. Development of infrastructure,
7 expansion of facilities, tenant relocations,
8 acquisition of lands, including but not limited to, a
9 new multi-use pier.

10 (c) For the purpose of this section, the chief executive
11 officer of the development corporation shall have the power to
12 appoint officers, agents, and employees, prescribe their duties
13 and qualifications, and fix their salaries, without regard to
14 chapter 76;

15 (d) The harbors modernization group shall include
16 additional members to the development corporation board of
17 directors for the purpose of directing the planning, design,
18 construction, and financing of the harbor projects identified in
19 the commercial harbors modernization plan. Should projects
20 identified in the commercial harbors modernization plan involve
21 land disposition matters, including but not limited to, land
22 acquisition, leasing, conveyance or acquisition of easements or



1 rights-of-ways, such land disposition matters shall continue to
2 be governed under chapter 171, under the jurisdiction of the
3 board of land and natural resources.

4 (e) The harbors modernization group shall retain all the
5 powers of the Aloha Tower development corporation under sections
6 206J-5 through 206J-21.

7 (f) Six additional voting members shall, except as
8 otherwise provided in this subsection, be appointed to the
9 development corporation by the governor to comprise the harbors
10 modernization group for four year terms pursuant to section
11 26-34. These members shall act and be counted in determining
12 quorum and majority only with respect to duties under the
13 harbors modernization group as described in section (d). Quorum
14 and majority for the harbors modernization group shall be
15 defined as a majority of members from the development
16 corporation plus four of the six members added by this
17 subsection to form the harbors modernization group. These
18 members shall serve without compensation, but each member shall
19 be reimbursed for expenses, including travel expenses, incurred
20 in the performance of their duties. These members shall consist
21 of:



- 1 (1) The director of budget and finance, or a respective
- 2 designated representative, who shall serve as an
- 3 ex-officio voting member;
- 4 (2) Two public members from the maritime industry; and
- 5 (3) The mayors of the counties of Hawaii, Maui, and Kauai,
- 6 or their respective designated representatives, who
- 7 shall serve as ex-officio voting members.

8 All members shall continue in office until their respective
9 successors have been appointed. The chairperson of the harbors
10 modernization group shall be the chairperson of the development
11 corporation.

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

18 (h) Any moneys or funds under the management of the
19 harbors modernization group shall be deposited into the harbor
20 special fund pursuant to section 266-19 upon the repeal of this
21 section."



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



1 under the ownership of the State or operated and managed by the
2 department, including rents, mooring, wharfage, dockage,
3 pilotage fees, and other fees or charges presently or hereafter
4 derived from or arising through the ownership, operation, and
5 management of harbor and related facilities and the furnishing
6 and supplying of the services thereof. The expenses of the
7 issuance of such harbor revenue bonds shall, to the extent not
8 paid from the proceeds of such bonds, be paid from the harbor
9 special fund.

10 The governor, in the governor's discretion, is authorized
11 to use the harbor revenue fund to finance those projects
12 authorized in section 6 of this Act where the method of
13 financing is designated to be by harbor revenue bond funds.

14 SECTION 6. The following sums, or so much thereof as may
15 be sufficient to accomplish the purposes designated herein, are
16 hereby appropriated or authorized, as the case may be, from the
17 harbor revenue bond funds for the fiscal year beginning July 1,
18 2008 and ending June 30, 2012. The sums appropriated shall be
19 expended by the department of transportation for the purposes of
20 this Act. The department of transportation, as expending
21 agency, shall delegate to the development corporation the
22 implementation of the capital improvement projects authorized in



1 this Act and subsequent acts, for the projects identified as the
2 commercial harbors modernization plan. After approval of the
3 project by the director of transportation and the governor,
4 expending authority for the approved projects shall be delegated
5 to the development corporation.

6 1. HMP - Kapalama military reservation
7 improvements, Honolulu harbor
8 Design and construction for the
9 development of a new container terminal
10 facility

| | | | |
|----|---------------|--------------|--------------|
| 11 | Design | \$26,900,000 | |
| 12 | Construction | \$ 3,000,000 | |
| 13 | Total funding | | \$29,900,000 |

14 2. HMP - Kalaeloa Barbers Point harbor
15 infrastructure improvements, Oahu
16 Design of utility and infrastructure improvements

| | | | |
|----|---------------|-----------|-----------|
| 17 | Design | \$300,000 | |
| 18 | Total funding | | \$300,000 |

19 3. HMP - Kalaeloa Barbers Point harbor
20 fuel pier improvements, Oahu
21 Design of new fuel pier and other site
22 related improvements



| | | | |
|----|--|--------------|--------------|
| 1 | Design | \$6,300,000 | |
| 2 | Total Funding | | \$6,300,000 |
| 3 | 4. HMP - Pier 4 interisland cargo | | |
| 4 | terminal, Hilo harbor, Hawaii | | |
| 5 | Design of additional interisland cargo | | |
| 6 | terminal areas including a pier, yard, | | |
| 7 | roadways, and utilities | | |
| 8 | Design | \$13,400,000 | |
| 9 | Total funding | | \$13,400,000 |
| 10 | 5. HMP - Kahului harbor land acquisition | | |
| 11 | and improvements, Maui | | |
| 12 | Purchase additional land and subsequent | | |
| 13 | design of improvements for the acquired | | |
| 14 | land | | |
| 15 | Land | \$15,000,000 | |
| 16 | Design | \$ 2,000,000 | |
| 17 | Total funding | | \$17,000,000 |
| 18 | 6. HMP - Hana harbor, Maui | | |
| 19 | Development of infrastructure, | | |
| 20 | demolition, as necessary, and expansion | | |
| 21 | of facilities | | |
| 22 | Total funding | | \$20,000,000 |



| | | | | |
|----|-----|--|-------------|-------------|
| 1 | 7. | HMP - West harbor barge-ferry slip, | | |
| 2 | | Kahului harbor, Maui | | |
| 3 | | Design for a new west harbor barge- | | |
| 4 | | ferry slip and associated site work | | |
| 5 | | improvements | | |
| 6 | | Design | \$8,000,000 | |
| 7 | | Total funding | | \$8,000,000 |
| 8 | 8. | HMP - West harbor dredging and | | |
| 9 | | breakwater, Kahului harbor, Maui | | |
| 10 | | Design for west harbor breakwater, | | |
| 11 | | dredging and associated improvements | | |
| 12 | | Design | \$3,000,000 | |
| 13 | | Total funding | | \$3,000,000 |
| 14 | 9. | HMP - West harbor cruise terminal | | |
| 15 | | Kahului harbor, Maui | | |
| 16 | | Design of a cruise terminal including | | |
| 17 | | paving, utilities, security, and other | | |
| 18 | | site work improvements | | |
| 19 | | Design | \$3,000,000 | |
| 20 | | Total funding | | \$3,000,000 |
| 21 | 10. | HMP - East harbor breakwater, Kahului | | |
| 22 | | harbor, Maui | | |



| | | | |
|----|---|-------------|-------------|
| 1 | Design of the east harbor breakwater | | |
| 2 | and related improvements | | |
| 3 | Design | \$3,000,000 | |
| 4 | Total funding | | \$3,000,000 |
| 5 | 11. HMP - Pier 2 improvements, Kahului | | |
| 6 | harbor, Maui | | |
| 7 | Design of improvements to the pier | | |
| 8 | including strengthening, bollard | | |
| 9 | replacement, dredging, and | | |
| 10 | environmental permitting | | |
| 11 | Design | \$500,000 | |
| 12 | Total funding | | \$500,000 |
| 13 | 12. HMP - Kawaihae harbor development plan, | | |
| 14 | Hawaii | | |
| 15 | Development plan for improving new | | |
| 16 | terminal cargo facilities at Kawaihae | | |
| 17 | harbor | | |
| 18 | Plans | \$500,000 | |
| 19 | Total funding | | \$500,000 |
| 20 | 13. HMP - Pier 2 terminal improvements, | | |
| 21 | Kawaihae harbor, Hawaii | | |



| | | | |
|----|--|--------------|--------------|
| 1 | Design and construction of terminal | | |
| 2 | improvements including and not limited | | |
| 3 | to paving, utilities, relocation of the | | |
| 4 | harbor agent's office, and interim | | |
| 5 | ferry improvements | | |
| 6 | Design | \$ 5,000,000 | |
| 7 | Construction | \$21,000,000 | |
| 8 | Total funding | | \$26,000,000 |
| 9 | 14. HMP - Pier 4, Kawaihae harbor, Hawaii | | |
| 10 | Design of a multi user pier 4 and | | |
| 11 | associated site work | | |
| 12 | Design | \$9,000,000 | |
| 13 | Total funding | | \$9,000,000 |
| 14 | 15. HMP - Multi User Pier 4, Nawiliwili | | |
| 15 | harbor | | |
| 16 | Design of new pier improvements and | | |
| 17 | related site and utility work | | |
| 18 | Design | \$300,000 | |
| 19 | Total funding | | \$300,000 |
| 20 | 16. HMP - Construction management support, | | |
| 21 | statewide | | |



1 Construction consultant services during
 2 construction of harbor modernization
 3 plan projects at harbor facilities
 4 statewide

| | | | |
|---|---------------|-------------|-------------|
| 5 | Construction | \$2,400,000 | |
| 6 | Total funding | | \$2,400,000 |

7 17. HMP - Harbors division capital
 8 improvement program staff cost,
 9 statewide costs related to wages and
 10 fringe benefits for permanent harbor
 11 modernization plan project funded
 12 positions

| | | | |
|----|---------------|-------------|-------------|
| 13 | Planning | \$1,735,000 | |
| 14 | Total funding | | \$1,735,000 |

15 The appropriations made for capital improvement projects
 16 authorized by this Act shall not lapse at the end of the fiscal
 17 biennium for which the appropriation is made; provided that all
 18 appropriations which are unencumbered as of June 30, 2012, shall
 19 lapse as of that date.

20 **PART II**



1 SECTION 7. Chapter 266, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§266- Hana harbor; jurisdiction. Notwithstanding any
5 law to the contrary, the department of transportation shall have
6 jurisdiction and administrative authority over Hana harbor,
7 excluding its small boat ramp facility. The Hana harbor small
8 boat ramp facility shall remain under the jurisdiction and
9 administrative authority of the department of land and natural
10 resources."

11 SECTION 8. All appropriations, records, equipment,
12 machines, files, supplies, contracts, books, papers, documents,
13 maps, and other personal property heretofore made, used,
14 acquired, or held by the department of land and natural
15 resources relating to the functions transferred to the
16 department of transportation shall be transferred with the
17 functions to which they relate.

18 SECTION 9. The jurisdiction, functions, powers, duties,
19 and authority exercised by the department of land and natural
20 resources pursuant to chapter 200, Hawaii Revised Statutes,
21 relating to the Hana harbor, excluding its small boat ramp
22 facility, shall be transferred to and conferred upon the



1 department of transportation by this Act and shall be performed
2 and enforced in the same manner as previously authorized,
3 entitled, or obligated except as otherwise authorized, directed,
4 or instructed by this Act.

5 The department of transportation shall succeed to all of
6 the rights and powers previously exercised, and all of the
7 duties and obligations incurred by the department of land and
8 natural resources in the exercise of the functions, powers,
9 duties, and authority transferred, whether such functions,
10 powers, duties, and authority are mentioned in or granted in any
11 law, contract, or other document.

12 All rules, policies, procedures, guidelines, and other
13 material adopted or developed by the department of land and
14 natural resources to implement the provisions of the Hawaii
15 Revised Statutes which are reenacted or made applicable to the
16 department of transportation by this Act, shall remain in full
17 force and effect until amended or repealed by the department of
18 transportation pursuant to chapter 91, Hawaii Revised Statutes.
19 In the interim, every reference to the department of land and
20 natural resources or chairperson of the board of land and
21 natural resources in those rules, policies, procedures,
22 guidelines, and other material is amended to refer to the



1 department of transportation or director of transportation as
2 appropriate.

3 All deeds, leases, contracts, loans, agreements, permits,
4 or other documents executed or entered into by or on behalf of
5 the department of land and natural resources pursuant to the
6 provisions of the Hawaii Revised Statutes, which are reenacted
7 or made applicable to the department of transportation by this
8 Act, shall remain in full force and effect. Every reference to
9 the department of land and natural resources or the chairperson
10 of the board of land and natural resources therein shall be
11 construed as a reference to the department of transportation or
12 the director of transportation as appropriate.

13 SECTION 10. All executive orders, revocable permits,
14 easements, and rights of entry for the use of state lands issued
15 and granted to the department of land and natural resources for
16 use in connection with Hana harbor, excluding its small boat
17 ramp facility, shall be withdrawn or terminated and appropriate
18 land disposition for use in connection with Hana harbor,
19 excluding its small boat ramp facility, shall be made by the
20 department of transportation, as appropriate, subsequent to the
21 transfer of Hana harbor, excluding its small boat ramp facility,
22 to the department of transportation.



1 SECTION 11. All acts passed by the legislature during this
2 regular session of 2008, whether enacted before or after the
3 effective date of this Act shall be amended to conform to this
4 Act unless such acts specifically provide that this Act is being
5 amended.

6 SECTION 12. This Act shall be liberally construed in order
7 to accomplish the purposes set forth herein.

8 **PART III**

9 SECTION 13. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 14. This Act shall take effect on July 1 2030;
12 provided that part I of this Act shall be repealed on June 30,
13 , and sections 206J-2 and 206J-5.5, Hawaii Revised Statutes,
14 are reenacted in the form in which they read on the day before
15 the effective date of this Act.



Report Title:

Harbors; Modernization Plan; Capital Improvement Projects;
Revenue Bond; Hana Ramp and Wharf Transfer

Description:

Expands the authority of the Aloha Tower development corporation to assist in the development of the statewide harbors modernization plan; authorizes the DOT to issue revenue bonds to finance the harbor improvements; transfers Hana harbor, excluding its small boat ramp facility, to DOT. (SD1)

