

JAN 23 2015

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT.

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

1 SECTION 1. The legislature finds that the department of
2 public safety, sheriff division, would be better suited than the
3 department of transportation to perform law enforcement
4 functions relating to harbors. The legislature further finds
5 that consolidating harbor law enforcement functions in the
6 department of public safety and requiring harbor police officers
7 to meet state sheriff qualifications will benefit the State by
8 standardizing skill requirements and increasing professionalism.

9 During the 2014 regular session, the legislature passed
10 S.B. No. 2589, CD1, the purpose and intent of which was to
11 transfer the law enforcement functions and authority related to
12 harbors from the department of transportation to the department
13 of public safety. That measure was vetoed on the grounds that
14 both departments were working collaboratively to improve
15 efficiency and effectiveness and that legislation was
16 unnecessary. While the legislature appreciates the departments'



1 efforts, statutory amendments are still necessary to effectuate
2 the transfer.

3 SECTION 2. Section 26-14.6, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§26-14.6 Department of public safety.** (a) The
6 department of public safety shall be headed by a single
7 executive to be known as the director of public safety.

8 (b) The department of public safety shall be responsible
9 for the formulation and implementation of state policies and
10 objectives for correctional, security, law enforcement, and
11 public safety programs and functions, for the administration and
12 maintenance of all public or private correctional facilities and
13 services, for the service of process, and for the security of
14 state buildings.

15 (c) Effective July 1, 1990, the Hawaii paroling authority
16 and the crime victim compensation commission are placed within
17 the department of public safety for administrative purposes
18 only.

19 (d) Effective July 1, 1990, the functions and authority
20 heretofore exercised by:



(1) The department of corrections relating to adult corrections and the intake service centers;

(2) The judiciary relating to the sheriff's office and judiciary security personnel; and

(3) The department of the attorney general relating to state law enforcement officers and narcotics enforcement investigators with the narcotics enforcement division,

shall be transferred to the department of public safety.

(e) Effective July 1, 1990, the functions and authority heretofore exercised by the department of health pursuant to chapters 329 and 329C, with the exception of sections 329-2, 329-3, and 329-4(3) to (8), shall be transferred to the department of public safety.

(f) Effective July 1, 1990, the functions, authority, and obligations, together with the limitations imposed thereon and the privileges and immunities conferred thereby, exercised by a "sheriff", "sheriffs", a "sheriff's deputy", "sheriff's deputies", a "deputy sheriff", "deputy sheriffs", or a "deputy", under sections 21-8, 47-18, 105-4, 134-51, 183D-11, 187A-14, 231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9,



1 353-11, 356D-54, 356D-94, 383-71, 438-5, 445-37, 482E-4, 485A-
2 202, 501-42, 501-171, 501-218, 521-78, 578-4, 584-6, 587-33,
3 603-29, 604-6.2, 606-14, 607-2, 607-4, 607-8, 633-8, 634-11,
4 634-12, 634-21, 634-22, 651-33, 651-37, 651-51, 654-2, 655-2,
5 657-13, 660-16, 666-11, 666-21, 803-23, 803-34, 803-35, 804-14,
6 804-18, 804-41, 805-1, 806-71, and 832-23 shall be exercised to
7 the same extent by the department of public safety.

8 (g) Effective January 1, 1993, the functions and authority
9 heretofore exercised by the attorney general and the department
10 of the attorney general relating to the executive security
11 officers shall be transferred to the department of public
12 safety.

13 (h) Effective July 1, 1999, the functions and authority
14 heretofore exercised by the director of public safety and the
15 department of public safety relating to after hours security
16 contracts at department of education facilities, except for the
17 security functions being performed by employees of the public
18 library system as well as the contractual security services for
19 the libraries, shall be transferred to the department of
20 education.



1 (i) Effective January 1, 1993, the functions and authority
2 heretofore exercised by the director of health and the
3 department of health relating to uniformed security employees
4 and security contracts at various state hospitals throughout the
5 State shall be transferred to the department of public safety.

6 Effective July 1, 2005, the functions, authority, and employee
7 positions of the department of public safety relating to
8 uniformed security employees and security contracts at health
9 facilities that are under the operation, management, and control
10 of the Hawaii health systems corporation shall be transferred to
11 the Hawaii health systems corporation.

12 (j) Effective January 1, 1993, the functions and authority
13 heretofore exercised by the director of human services and the
14 department of human services relating to contractual security
15 guard services shall be transferred to the department of public
16 safety.

17 (k) Effective July 1, 1994, the functions and authority
18 heretofore exercised by the adjutant general relating to
19 security for national guard and state emergency management
20 facilities in the Diamond Head complex, for after work hours,
21 shall be transferred to the department of public safety.



(1) Effective July 1, 2002, the functions and authority heretofore exercised by the director of public safety and the department of public safety relating to after hours security contracts at department of education facilities, including all security functions being performed by employees of the public library system, as well as the contractual security services for the libraries, shall be transferred to the department of education and the public library system as appropriate.

(m) Effective July 1, 2017, the functions and authority exercised by the director of transportation relating to harbors law enforcement shall be transferred to the department of public safety."

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

"§26-19 Department of transportation. The department of transportation shall be headed by a single executive to be known as the director of transportation. The department shall establish, maintain, and operate transportation facilities of the State, including highways, airports, harbors, and such other transportation facilities and activities as may be authorized by law.



1 The department shall plan, develop, promote, and coordinate
2 various transportation systems management programs that shall
3 include, but not be limited to, alternate work and school hours
4 programs, bicycling programs, and ridesharing programs.

5 The department shall develop and promote ridesharing
6 programs which shall include but not be limited to, carpool and
7 vanpool programs, and may assist organizations interested in
8 promoting similar programs, arrange for contracts with private
9 organizations to manage and operate these programs, and assist
10 in the formulation of ridesharing arrangements. Ridesharing
11 programs include informal arrangements in which two or more
12 persons ride together in a motor vehicle.

13 The functions and authority heretofore exercised by the
14 department of public works with respect to highways are
15 transferred to the department of transportation established by
16 this chapter.

17 Effective July 1, 2017, the functions and authority
18 exercised by the director of transportation relating to harbors
19 law enforcement shall be transferred to the department of public
20 safety.



1 On July 1, 1961, the Hawaii aeronautics commission, the
2 board of harbor commissioners and the highway commission shall
3 be abolished and their remaining functions, duties, and powers
4 shall be transferred to the department of transportation."

5 SECTION 4. Section 266-29, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§266-29[+] **State harbors civil violations system;**
8 **authorization.** (a) There is established, within the department
9 of transportation, a state harbors civil violations system,
10 whose purpose shall be to process violations of departmental
11 regulations for which administrative penalties have been
12 authorized by law or rules adopted thereunder.

13 (b) The department of transportation shall adopt, amend,
14 and repeal rules, subject to chapter 91, for the purposes of
15 this section.

16 (c) Rules adopted pursuant to subsection (b) may include,
17 but are not limited to, the following:

18 (1) Requirements for notice of state harbors infraction;

19 (2) A form of the answer that shall be made pursuant to a
20 notice of state harbors infraction, which answer may
21 be an admission of the infraction, a denial of the



1 infraction, or an admission of the infraction with
2 mitigating circumstances;

3 (3) The action to be taken after an answer is received or
4 when a person fails to answer the notice of state
5 harbors infraction;

6 (4) Procedures for administrative hearings under this
7 section;

8 (5) The imposition and enforcement of monetary assessments
9 made pursuant to this section; and

10 (6) Means of assuring that the alleged violator who
11 answers the notice of state harbors infraction by an
12 admission of the infraction or an admission of the
13 infraction with mitigating circumstances has knowingly
14 and voluntarily elected to use the state harbors civil
15 violations system and waive the appeal provided for in
16 section 91-14.

17 (d) Notwithstanding any other provision of law to the
18 contrary, all state harbors infractions that the department of
19 transportation identifies as subject to administrative penalties
20 may be adjudicated pursuant to this section.



1 (e) Effective July 1, 2017, the issuance of citations or
2 notices of infractions of the state harbors civil violations
3 system shall be under the jurisdiction of the department of
4 public safety. All other functions and responsibilities shall
5 remain with the department of transportation."

6 SECTION 5. Section 353C-2, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§353C-2 Director of public safety; powers and duties.**

9 [+](a)[+] The director of public safety shall administer the
10 public safety programs of the department of public safety and
11 shall be responsible for the formulation and implementation of
12 state goals and objectives for correctional and law enforcement
13 programs, including ensuring that correctional facilities and
14 correctional services meet the present and future needs of
15 persons committed to the correctional facilities. In the
16 administration of these programs, the director may:

- 17 (1) Preserve the public peace, prevent crime, detect and
18 arrest offenders against the law, protect the rights
19 of persons and property, and enforce and prevent
20 violation of all laws and administrative rules of the
21 State as the director deems to be necessary or



1 desirable or upon request, to assist other state
2 officers or agencies that have primary administrative
3 responsibility over specific subject matters or
4 programs;

5 (2) Train, equip, maintain, and supervise the force of
6 public safety officers, including law enforcement and
7 correctional personnel, and other employees of the
8 department;

9 (3) Serve process both in civil and criminal proceedings;

10 (4) Perform other duties as may be required by law;

11 (5) Adopt, pursuant to chapter 91, rules that are
12 necessary or desirable for the administration of
13 public safety programs; and

14 (6) Enter into contracts in behalf of the department and
15 take all actions deemed necessary and appropriate for
16 the proper and efficient administration of the
17 department.

18 **(b) Effective July 1, 2017:**

19 **(1) There shall be established a harbors section within**
20 **the department of public safety;**



1 (2) The functions and authority heretofore exercised by
2 the director of transportation relating to harbors law
3 enforcement shall be transferred to the department of
4 public safety; and

5 (3) Harbor police officers shall meet the qualifications
6 established in accordance with section 353C-9, for
7 sheriffs of the department of public safety.

8 ~~[(b)]~~ (c) The department of public safety shall report
9 to the legislature not later than twenty days prior to the
10 commencement of the 2008 regular session, and every session
11 thereafter, with its achievements, continuing improvements, and
12 ongoing problems in providing the appropriate mental health care
13 to committed persons under its jurisdiction."

14 SECTION 6. Section 353C-4, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The director may appoint employees to be public
17 safety officers who shall have all of the powers of police
18 officers; provided that the director may establish and assign
19 the employees to positions or categories of positions that may
20 have differing titles, specific duties, and limitations upon the
21 exercise of police powers~~[-]~~; provided further that all officers



1 assigned to carry out law enforcement functions at state harbors
2 shall meet the qualifications established for sheriffs of the
3 department."

4 SECTION 7. All rights, powers, functions, and duties of
5 the department of transportation, harbors division related to
6 law enforcement are transferred to the department of public
7 safety.

8 All employees who occupy civil service positions and whose
9 functions are transferred to the department of public safety by
10 this Act shall retain their civil service status, whether
11 permanent or temporary. Employees shall be transferred without
12 loss of salary, seniority (except as prescribed by applicable
13 collective bargaining agreements), retention points, prior
14 service credit, any vacation and sick leave credits previously
15 earned, and other rights, benefits, and privileges, in
16 accordance with state personnel laws and this Act; provided that
17 the employees possess the minimum qualifications and public
18 employment requirements for the class or position to which
19 transferred or appointed, as applicable; provided further that
20 subsequent changes in status may be made pursuant to applicable
21 civil service and compensation laws.



1 Any employee who, prior to this Act, is exempt from civil
2 service and is transferred as a consequence of this Act may
3 retain the employee's exempt status, but shall not be appointed
4 to a civil service position as a consequence of this Act. An
5 exempt employee who is transferred by this Act shall not suffer
6 any loss of prior service credit, vacation or sick leave credits
7 previously earned, or other employee benefits or privileges as a
8 consequence of this Act; provided that the employee possesses
9 legal and public employment requirements for the position to
10 which transferred or appointed, as applicable; provided further
11 that subsequent changes in status may be made pursuant to
12 applicable employment and compensation laws. The director of
13 public safety may prescribe the duties and qualifications of
14 these employees and fix their salaries without regard to chapter
15 76, Hawaii Revised Statutes.

16 SECTION 8. All appropriations, records, equipment,
17 machines, files, supplies, contracts, books, papers, documents,
18 maps, and other personal property heretofore made, used,
19 acquired, or held by the department of transportation relating
20 to the functions transferred to the department of public safety
21 shall be transferred with the functions to which they relate.



1 SECTION 9. The director of public safety, in cooperation
2 with the director of transportation shall submit a report to the
3 legislature, including findings, recommendations, and updates on
4 the transference of functions and authority of harbors law
5 enforcement from the department of transportation to the
6 department of public safety, no later than twenty days prior to
7 the convening of the regular session of 2017.

8 SECTION 10. This Act shall not be construed to impair or
9 delay any administrative preparations to date to effectuate the
10 transfer of the harbors law enforcement functions from the
11 department of transportation to the department of public safety.

12 This Act makes statutory revisions which are necessary to
13 effectuate the transfer.

14 SECTION 11. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 12. This Act shall take effect on July 1, 2015.

17
INTRODUCED BY: _____

Will Egan

David H. Baker



S.B. NO. 678

Report Title:

Harbor Police; Department of Public Safety; Department of Transportation; Transfer

Description:

Transfers the law enforcement functions of the harbors division of the department of transportation to the department of public safety as of July 1, 2017.

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

