

JAN 20 2017

A BILL FOR AN ACT

RELATING TO AN AIRPORT CORPORATION.

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

1 SECTION 1. The legislature finds that the economic well-
2 being of the State is substantially dependent on the efficient
3 development, management, and operation of its airports and air
4 transportation infrastructure. The legislature further finds
5 that responsibility for Hawaii's airport planning, management,
6 marketing, and capital development functions is currently
7 distributed among a number of agencies, including the department
8 of transportation's airports division, Hawaii tourism authority,
9 department of budget and finance, department of human resources
10 development, board of land and natural resources, department of
11 health with respect to environmental concerns, and the office of
12 Hawaiian affairs with respect to ceded land issues, among
13 others. Furthermore, key decision-making is vested in the state
14 legislature, which is only in regular session for part of each
15 year which imposes a constraint to responsiveness and causes
16 delay to key capital improvement program decisions. Distributed
17 responsibility and involvement by multiple agencies, sometimes



1 with conflicting goals and priorities, results in delayed
2 decision-making, inefficiency, and reduced effectiveness.

3 The legislature believes that coordinated planning and
4 development of air transportation would be achieved more
5 effectively by a single entity having overall consolidated
6 jurisdiction for the State's airport infrastructure.

7 The legislature further finds that the establishment of an
8 independent airport corporation would assist in the achievement
9 of the following important statewide objectives:

- 10 (1) Maximizing the contribution of the state airports
11 system to Hawaii's economy;
- 12 (2) Ensuring dedicated, expert airport leadership,
13 management continuity, and year-round decision-making,
14 consistent with industry best practices;
- 15 (3) Improving administrative efficiency by streamlining
16 administrative processes;
- 17 (4) Accelerating the planning and delivery of the airports
18 system's capital improvement program;
- 19 (5) Increasing the financial flexibility and strength of
20 the airports system;



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

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

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

6 "Airport" means any area of land or water that is used, or
7 intended for use, for the landing and taking-off of aircraft,
8 and any appurtenant areas that are used, or intended for use,
9 for airport buildings or other airport facilities or rights-of-
10 way, including approaches, together with all airport buildings
11 and facilities located thereon.

12 "Airport corporation" or "corporation" means the Hawaii
13 airport corporation.

14 "Chief executive officer" means the chief executive officer
15 of the Hawaii airport corporation.

16 § -2 Airport corporation; establishment; board; members;
17 chief executive officer. (a) There is established the Hawaii
18 airport corporation, which shall be a body politic and
19 corporate, constituting a public instrumentality for the
20 performance of an essential public and governmental function as
21 provided in this chapter. The corporation shall be established



1 and shall operate as a subdivision of the State for the purpose
2 of developing and implementing management structures, policies,
3 and procedures based on airport industry best practices and
4 expressly configured to support the efficient development,
5 management, and operation of the State's airports and
6 aeronautical facilities. The corporation shall be placed within
7 the department of transportation for administrative purposes
8 only. The airport corporation shall only be repealed by a vote
9 of not less than a majority of the members of each house of the
10 legislature.

11 (b) The powers of the airport corporation shall be vested
12 in and exercised by a board of directors, which shall consist of
13 five voting members, who shall be appointed as follows:

14 (1) Three members appointed by the governor pursuant to
15 section 26-34;

16 (2) One member appointed by the speaker of the house of
17 representatives; and

18 (3) One member appointed by the president of the senate.

19 All members shall be appointed for terms of four years; provided
20 that the initial terms of the members appointed by the governor
21 shall be staggered. Members shall be removed from office by the



1 appointing authority only for inefficiency, neglect of duty,
2 turpitude, or misconduct in office after giving the member a
3 copy of the charges against the member and allowing the member
4 an opportunity to be heard, in person or by counsel, upon not
5 less than ten days notice.

6 Members shall have relevant business and management
7 experience, including experience in one or more of the following
8 disciplines: financial planning, budgeting, hospitality,
9 tourism, commercial development, construction program
10 management, marketing, law, or aviation.

11 All members shall continue in office until their respective
12 successors have been appointed.

13 Except as provided in this chapter, no member appointed
14 under this section shall be an officer or employee of the State
15 or the counties.

16 (c) The airport corporation shall be headed by a single
17 executive to be known as the chief executive officer of the
18 Hawaii airport corporation, who shall:

- 19 (1) Not be a member of the board;
- 20 (2) Serve at the pleasure of the board; and



- 1 (3) Receive such compensation as shall be fixed by the
- 2 board.
- 3 (d) The chief executive officer:
- 4 (1) Shall be selected based on criteria approved by the
- 5 board, including experience in airport management at
- 6 an executive level at a large- or medium-hub airport
- 7 within the United States, management of significant
- 8 scale capital programs, and domestic and international
- 9 air service development;
- 10 (2) Shall be appointed by the vote of not less than three
- 11 members of the board;
- 12 (3) Shall be employed subject to a formal contract, the
- 13 terms of which shall be approved by the board;
- 14 (4) May be removed from office only by a vote of not less
- 15 than three members of the board; provided that the
- 16 basis for removal is consistent with the terms of the
- 17 applicable employment contract;
- 18 (5) May establish management organization structures;
- 19 (6) May appoint such deputy executive officers as the
- 20 chief executive officer deems appropriate. Each



- 1 deputy executive officer shall exercise those powers
2 that may be delegated by the chief executive officer;
- 3 (7) Shall have such powers as described in this chapter
4 and as may be delegated by the members of the board;
- 5 (8) Shall attend all meetings of the board, keep a record
6 of the proceedings, and shall maintain and be the
7 custodian of all books, records, documents, and papers
8 filed with the corporation, of the minute book of the
9 corporation, and of its official seal;
- 10 (9) Shall direct and supervise the corporation's
11 administrative affairs and technical activities in
12 accordance with the directives of the board;
- 13 (10) Shall approve all accounts for salaries and allowable
14 expenses of the corporation or of any employee or
15 consultant thereof;
- 16 (11) May hire staff and employees to fill positions that
17 may be provided for in the airport corporation's
18 annual budget; provided that the functions and duties
19 of all positions shall be provided for in the bylaws
20 of the airport corporation; and



1 (12) Shall perform such other duties as may be directed by
2 the board in carrying out the purpose of the
3 corporation.

4 (e) The airport corporation shall establish bylaws
5 providing for, upon the vacancy of the position of the chief
6 executive officer, the automatic succession of a deputy
7 executive officer on an interim basis until a permanent chief
8 executive officer is appointed.

9 (f) The number of members of the board necessary to
10 constitute a quorum to do business shall be a majority of the
11 members.

12 § -3 Powers; generally. Except as otherwise provided in
13 this chapter, the airport corporation:

14 (1) Shall exercise power and control over airports, air
15 navigation facilities, buildings, and other facilities
16 belonging to, or controlled by, the airport
17 corporation;

18 (2) Shall exercise general supervision over aeronautics
19 within the State and, in connection therewith,
20 encourage, foster, and assist in the development of
21 aeronautics in the State, and encourage the



- 1 establishment of airports and air navigation
2 facilities;
- 3 (3) Shall provide for the landing, taking-off, and
4 servicing of aircraft, and the loading and unloading
5 of passengers and cargo;
- 6 (4) Shall provide for the comfort, accommodation, and
7 convenience of air travelers;
- 8 (5) Shall establish performance targets and performance
9 standards to achieve the highest levels of customer
10 service;
- 11 (6) Shall cooperate with and assist the federal government
12 and other persons in the development of aeronautics;
- 13 (7) Shall seek to coordinate the aeronautical activities
14 of the State with those activities of the federal
15 government;
- 16 (8) Shall ensure that appropriate mission statements,
17 business plans, minimum development standards, and
18 strategic goals are established and that progress
19 towards their accomplishment is regularly assessed and
20 reported;



1 (9) Shall develop an organization and management structure
2 to best accomplish the goals of the Hawaii airport
3 system and the corporation;

4 (10) Shall develop and implement policies and procedures
5 for the timely and efficient procurement of
6 professional services; planning, engineering, and
7 construction services; and such other services and
8 materiel as may be required for the development,
9 management, and operation of the airport system,
10 consistent with accepted standards of probity,
11 transparency, and accountability for a public body.
12 The corporation shall not be subject to chapter 103D
13 and any other requirements of law for competitive
14 bidding for project agreements, construction
15 contracts, professional services, and lease and
16 sublease agreements;

17 (11) Shall employ staff subject to public employment laws,
18 and establish compensation programs to ensure that
19 qualified staff can be remunerated competitively;



- 1 (12) Shall appoint officers, agents, and employees through
2 the chief executive officer, prescribe their duties
3 and qualifications, and fix their salaries;
- 4 (13) May use the facilities and services of any department,
5 board, commission, or agency of the State or counties,
6 subject to the provisions of memoranda of
7 understanding approved by the board;
- 8 (14) May sue and be sued;
- 9 (15) Shall have a seal and may alter the seal at its
10 pleasure;
- 11 (16) May make and execute contracts and all other
12 instruments necessary or convenient for the exercise
13 of its powers and functions under this chapter;
- 14 (17) Shall establish bylaws for its organization and
15 internal management;
- 16 (18) Shall adopt rules pursuant to chapter 91 to carry out
17 the purpose of this chapter;
- 18 (19) Shall adopt an annual budget for its operations,
19 maintenance, and capital improvements;
- 20 (20) May own, sell, lease, hold, clear, improve, and
21 rehabilitate real; personal, or mixed property, and



1 assign, exchange, transfer, convey, lease, sublease,
2 or encumber any airport, or any project, improvement,
3 or facility related thereto;

4 (21) Shall develop, construct, reconstruct, rehabilitate,
5 improve, alter, or repair, or provide for the
6 development, construction, reconstruction,
7 rehabilitation, improvement, alteration, or repair of,
8 any airport, or any project, improvement, or facility
9 related thereto;

10 (22) May own, hold, assign, transfer, convey, exchange,
11 lease, sublease, or encumber any airport or any
12 project, improvement, or facility related thereto;

13 (23) Shall arrange or initiate appropriate action for the
14 planning, opening, grading, relocating, or closing of
15 streets, roads, roadways, alleys, easements, or other
16 places; the furnishing of facilities; the acquisition
17 of property or property rights; and the furnishing of
18 property, development rights, or services in
19 connection with any airport or any project,
20 improvement, or facility related thereto;



- 1 (24) May grant options or renew any lease entered into by
2 it in connection with any project, on terms and
3 conditions as it deems advisable;
- 4 (25) May engage the services of consultants on a
5 contractual basis for rendering professional and
6 technical assistance and advice;
- 7 (26) Shall procure insurance against any loss in connection
8 with its property and other assets and operations, in
9 such amounts and from such insurers as it deems
10 desirable, or provide for self-insurance;
- 11 (27) May accept and receive gifts or grants in any form
12 from any person, public entity, or source; provided
13 that the grants and gifts shall be used for airport
14 corporation purposes;
- 15 (28) May pledge or assign all or any part of the moneys,
16 fees, rents, charges, or other revenues and proceeds
17 derived by the airport corporation from the proceeds
18 of insurance or condemnation awards for the loss of
19 revenues or incurring of costs and expenses because of
20 any action taken by the airport corporation;



- 1 (29) Shall fix, impose, prescribe, and collect rates,
2 rentals, fees, or charges for the lease, use, and
3 services of its airport facilities at least sufficient
4 to pay the costs of operation, maintenance, and
5 repair, if any, and the required payments of the
6 principal of, and interest on, all bonds issued or
7 assumed by the airport corporation and reserves
8 therefor;
- 9 (30) May engage in economic development programs and
10 contract with the department of business, economic
11 development, and tourism or nonprofit corporations in
12 the furtherance of economic development;
- 13 (31) May take all actions necessary under emergencies such
14 as hurricanes, tsunamis, and other natural disasters;
- 15 (32) Shall plan, construct, operate, and maintain all
16 airport facilities in the State;
- 17 (33) May appropriate and allot airport funds, issue revenue
18 bonds and special facility revenue bonds in its name
19 pursuant to chapter 39, but not in excess of such
20 principal amounts as are necessary for its purposes or
21 specified in covenants with bondholders;



- 1 (34) May invest and secure its moneys in accordance with
2 chapters 36 and 38;
- 3 (35) May take public and private property for use in
4 furthering any of the purposes of the airport
5 corporation; provided that all proceedings for
6 condemnation shall be conducted in accordance with
7 chapter 101;
- 8 (36) May provide compensation, allowance, or other
9 assistance to any person for relocation or
10 displacement caused by the acquisition of land for
11 airport purposes;
- 12 (37) May hire or contract law enforcement personnel;
- 13 (38) May license all airports and heliports within the
14 State, pursuant to all federal and state rules and
15 regulations, and the procedures of the airport
16 corporation;
- 17 (39) May approve all safety, security, and federal
18 certification plans, procedures, and specifications
19 related to the operation, management and development
20 of all airports and heliports within the State; and



1 (40) May do any and all things necessary to carry out its
2 powers and duties pursuant to this chapter."

3 SECTION 3. Section 261-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§261-2 Development of aeronautics, general. The
6 department of transportation shall have general supervision over
7 aeronautics within the State[-] provided that on July 1, 2018,
8 the general supervision shall be transferred to the Hawaii
9 airport corporation. It shall encourage, foster, and assist in
10 the development of aeronautics in the State and encourage the
11 establishment of airports and air navigation facilities. It
12 shall cooperate with and assist the federal government and other
13 persons in the development of aeronautics and shall seek to
14 coordinate the aeronautical activities of the State with those
15 of the federal government. Municipalities may cooperate with
16 the department in the development of aeronautics and aeronautics
17 facilities in the State."

18 SECTION 4. The Hawaii airport corporation shall be a
19 successor agency, and jurisdiction over aeronautics and
20 airports, including airport functions under the department of



1 transportation's airports division, shall be transferred to the
2 Hawaii airport corporation on July 1, 2018.

3 To the extent that the Hawaii airport corporation is
4 authorized in this Act to exercise powers and duties which are
5 also granted to other departments, offices, or boards of the
6 State, with respect to airports and aeronautical facilities, the
7 Hawaii airport corporation shall exercise such powers and
8 perform such duties in lieu of any other departments, offices,
9 and boards.

10 SECTION 5. The State shall facilitate the corporation's
11 governance over airports and provide an orderly transition of
12 ownership, jurisdiction, assets, liabilities, powers, funds,
13 accounts, contracts, employees, and any other rights, benefits,
14 or obligations, and authority to control, operate, develop, and
15 maintain airports and aeronautical facilities from the
16 department of transportation to the corporation prior to July 1,
17 2018.

18 SECTION 6. The revisor of statutes shall substitute the
19 phrase "Hawaii airport corporation" in chapter 261, Hawaii
20 Revised Statutes, wherever the word "department" appears, except



1 for the amendments made to section 261-2, Hawaii Revised
2 Statutes, in section 3 of this Act.

3 SECTION 7. It is the intent of this Act not to jeopardize
4 the receipt of any federal aid nor to impair the obligation of
5 the State or any agency thereof to the holders of any bond
6 issued by the State or by any such agency, and to the extent,
7 and only to the extent, necessary to effectuate this intent, the
8 governor may modify the strict provisions of this Act, but shall
9 promptly report any such modification with reasons therefor to
10 the legislature at its next session thereafter for review by the
11 legislature.

12 SECTION 8. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 9. If any provision of this Act, or the
16 application thereof to any person or circumstance, is held
17 invalid, the invalidity shall not affect the other provisions or
18 applications of this Act that can be given effect without the
19 invalid provision or application, and to this end the provisions
20 of this Act are severable.



1 SECTION 10. All rights, powers, functions, and duties of
2 the department of transportation's airports division are
3 transferred to the Hawaii airport corporation on July 1, 2018.
4 The Hawaii airport corporation shall be a successor employer to
5 the State, and shall recognize all bargaining units and
6 collective bargaining agreements existing at the time of
7 transfer to the corporation. The employees of the corporation
8 shall be considered employees of the State as provided in this
9 section. The corporation shall not be required to comply with
10 the policies of the department of human resource development
11 with regard to approval for the creation of new positions, the
12 number of such positions, the decision to fill such positions,
13 or the time for filling such positions.

14 All employees who occupy civil service positions and whose
15 functions are transferred to the Hawaii airport corporation by
16 this Act shall retain their civil service status, whether
17 permanent or temporary. Employees shall be transferred without
18 loss of salary, seniority (except as prescribed by applicable
19 collective bargaining agreements), retention points, prior
20 service credit, any vacation and sick leave credits previously
21 earned, and other rights, benefits, and privileges, in



1 accordance with state personnel laws and this Act; provided that
2 the employees possess the minimum qualifications and public
3 employment requirements for the class or position to which
4 transferred or appointed, as applicable.

5 Any employee who, prior to this Act, is exempt from civil
6 service and is transferred as a consequence of this Act may
7 retain the employee's exempt status, but shall not be appointed
8 to a civil service position as a consequence of this Act. An
9 exempt employee who is transferred by this Act shall not suffer
10 any loss of prior service credit, vacation or sick leave credits
11 previously earned, or other employee benefits or privileges as a
12 consequence of this Act; provided that the employees possess
13 legal and public employment requirements for the position to
14 which transferred or appointed, as applicable. The chief
15 executive officer of the Hawaii airport corporation may
16 prescribe the duties and qualifications of these employees and
17 fix their salaries without regard to chapter 76, Hawaii Revised
18 Statutes.

19 No employee covered by a collective bargaining unit as an
20 employee of the department of transportation shall be laid off
21 as a result of the creation of the Hawaii airport corporation.



1 The officers and all other employees of the Hawaii airport
2 corporation shall be State employees for the purposes of
3 benefits and retirement. The corporation shall reimburse the
4 appropriate state agencies for all costs incurred by such
5 designation.

6 In addition to positions transferred to the corporation,
7 the Hawaii airport corporation may create one or more new
8 classifications of employees as determined by the board of
9 directors of the corporation. Such classifications shall not be
10 deemed comparable to other civil service classifications, and
11 may be exempt from classified service. On and after July 1,
12 2018, the corporation may hire employees into new unclassified
13 positions without regard to any collective bargaining agreement
14 then in effect and may set the initial terms and conditions of
15 employment for all employees in new unclassified positions.

16 SECTION 11. On July 1, 2018, all appropriations, records,
17 equipment, machines, files, supplies, contracts, books, papers,
18 documents, maps, and other personal property heretofore made,
19 used, acquired, or held by the department of transportation
20 relating to the functions transferred to the Hawaii airport



1 corporation shall be transferred with the functions to which
2 they relate.

3 SECTION 12. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 13. This Act shall take effect on July 1, 2017.

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S.B. NO. 658

Report Title:

Tourism; Transportation; Hawaii Airport Corporation

Description:

Authorizes the establishment of the Hawaii airport corporation within the department of transportation for administrative purposes on July 1, 2018. Sets out appointment of members to the board of directors and powers and duties of the Hawaii airport corporation. Transfers the aeronautics functions of DOT to the Hawaii airport authority.

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

