
A BILL FOR AN ACT

RELATING TO A DEPARTMENT OF AIRPORTS.

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

1 SECTION 1. The legislature finds that the State's airports
2 have a decades-long history of problematic operations, lack of
3 transparency, lack of accountability, and questionable
4 procurement practices. Much of this can be attributed to how
5 the various planning, management, marketing, and capital
6 development functions are distributed among a number of
7 agencies, each with its own responsibilities and priorities.
8 Without strong oversight that is focused on improving the
9 airports, even the best intentions can lead to deficiencies,
10 issues, and lawsuits.

11 Thus, the legislature finds that strong, stable leadership
12 that is held accountable will improve the efficiency and
13 effectiveness of the State's airports. Accordingly, the purpose
14 of this Act is to create a department of airports, to be headed
15 by a director of airports with a six-year appointment. A
16 separate department devoted to aeronautic and airport issues
17 will provide much-needed attention dedicated to improving the



1 State's airports and will lead to higher levels of
2 accountability. The six-year appointment for the director of
3 airports will provide stability at the management level.

4 SECTION 2. Chapter 26, Hawaii Revised Statutes, is amended
5 by adding a new section to be appropriately designated and to
6 read as follows:

7 "§26-A Department of airports. (a) The department of
8 airports shall be headed by a single executive to be known as
9 the director of airports.

10 (b) The department shall develop, manage, operate, and
11 maintain the State's airports and aeronautical facilities.

12 (c) The provisions of section 26-31 shall not apply and
13 the director shall be nominated and, by and with the advice and
14 consent of the senate, appointed by the governor for a six-year
15 term."

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

18 "§26-4 Structure of government. Under the supervision of
19 the governor, all executive and administrative offices,
20 departments, and instrumentalities of the state government and
21 their respective functions, powers, and duties shall be



1 allocated among and within the following principal departments
2 that are hereby established:

3 (1) Department of human resources development (Section 26-
4 5)

5 (2) Department of accounting and general services (Section
6 26-6)

7 (3) Department of the attorney general (Section 26-7)

8 (4) Department of budget and finance (Section 26-8)

9 (5) Department of commerce and consumer affairs (Section
10 26-9)

11 (6) Department of taxation (Section 26-10)

12 (7) University of Hawaii (Section 26-11)

13 (8) Department of education (Section 26-12)

14 (9) Department of health (Section 26-13)

15 (10) Department of human services (Section 26-14)

16 (11) Department of land and natural resources (Section 26-
17 15)

18 (12) Department of agriculture (Section 26-16)

19 (13) Department of Hawaiian home lands (Section 26-17)

20 (14) Department of business, economic development, and
21 tourism (Section 26-18)



- 1 (15) Department of transportation (Section 26-19)
- 2 (16) Department of labor and industrial relations (Section
- 3 26-20)
- 4 (17) Department of defense (Section 26-21)
- 5 (18) Department of public safety (Section 26-14.6) [-]
- 6 (19) Department of airports (Section 26-A)."

7 SECTION 4. Section 26-6, Hawaii Revised Statutes, is
8 amended by amending subsection (d) to read as follows:

9 "(d) The department shall establish, coordinate, and
10 manage a program to facilitate facility agreements between the
11 State and private investors for the sale of facilities,
12 excluding facilities managed or controlled by the department of
13 transportation[-] or department of airports, to private
14 investors; provided that each facility agreement contains the
15 following requirements:

16 (1) The State shall sell the facility to the private
17 investor, who shall:

18 (A) Renovate, improve, or construct a facility for
19 the State and may maintain the facility; and

20 (B) Lease the facility to the State, pursuant to a
21 building lease;



1 (2) The land upon which the facility rests shall not be
2 sold to the private investor; provided that the land
3 may be leased at a nominal rate to the private
4 investor for a term that would, at a minimum, allow
5 the private investor to recover the capital investment
6 that has been made to the facility, including
7 depreciation; and

8 (3) The State shall have the option of purchasing the
9 facility from the private investor for the remaining
10 balance of the debt service costs incurred by the
11 private investor at any time.

12 For purposes of this subsection:

13 "Building lease" means a contract between the department of
14 accounting and general services and a private investor in which
15 the private investor leases an improved facility to the
16 department for a specified period of time.

17 "Facility" means a building under the management and
18 control of any state department.

19 "Facility agreement" means an agreement between the State
20 and a private investor that, at a minimum, includes a
21 description of the work to be done, the sale price for the



1 facility, the duration of the agreement, the roles and
2 responsibilities of the State and the private investor, and the
3 terms and conditions for the lease.

4 "Private investor" means a nongovernmental entity."

5 SECTION 5. Section 26-19, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§26-19 Department of transportation.** The department of
8 transportation shall be headed by a single executive to be known
9 as the director of transportation. The department shall
10 establish, maintain, and operate transportation facilities of
11 the State, including highways, ~~[airports,~~ harbors, and such
12 other transportation facilities and activities, other than
13 airports and aeronautics, as may be authorized by law.

14 The department shall plan, develop, promote, and coordinate
15 various transportation systems management programs that shall
16 include, but not be limited to, alternate work and school hours
17 programs, bicycling programs, and ridesharing programs.

18 The department shall develop and promote ridesharing
19 programs which shall include but not be limited to, carpool and
20 vanpool programs, and may assist organizations interested in
21 promoting similar programs, arrange for contracts with private



1 organizations to manage and operate these programs, and assist
2 in the formulation of ridesharing arrangements. Ridesharing
3 programs include informal arrangements in which two or more
4 persons ride together in a motor vehicle.

5 ~~[The functions and authority heretofore exercised by the~~
6 ~~department of public works with respect to highways are~~
7 ~~transferred to the department of transportation established by~~
8 ~~this chapter.~~

9 ~~On July 1, 1961, the Hawaii aeronautics commission, the~~
10 ~~board of harbor commissioners and the highway commission shall~~
11 ~~be abolished and their remaining functions, duties, and powers~~
12 ~~shall be transferred to the department of transportation.] "~~

13 SECTION 6. Section 26-52, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§26-52 Department heads and executive officers.** The
16 salaries of the following state officers shall be as follows:

- 17 (1) The salary of the superintendent of education shall be
18 set by the board of education at a rate no greater
19 than \$250,000 a year. The superintendent shall be
20 subject to an annual performance evaluation that is in
21 alignment with other employee evaluations within the



1 department of education and are based on outcomes
2 determined by the board of education; provided that
3 nothing shall prohibit the board of education from
4 conditioning a portion of the salary on performance;

5 (2) The salary of the president of the University of
6 Hawaii shall be set by the board of regents;

7 (3) Effective July 1, 2004, the salaries of all department
8 heads or executive officers of the departments of
9 accounting and general services, agriculture,
10 airports, attorney general, budget and finance,
11 business, economic development, and tourism, commerce
12 and consumer affairs, Hawaiian home lands, health,
13 human resources development, human services, labor and
14 industrial relations, land and natural resources,
15 public safety, taxation, and transportation shall be
16 as last recommended by the executive salary
17 commission. Effective July 1, 2007, and every six
18 years thereafter, the salaries shall be as last
19 recommended by the commission on salaries pursuant to
20 section 26-56, unless rejected by the legislature; and



(4) The salary of the adjutant general shall be \$85,302 a year. Effective July 1, 2007, and every six years thereafter, the salary of the adjutant general shall be as last recommended by the commission on salaries pursuant to section 26-56, unless rejected by the legislature, except that if the state salary is in conflict with the pay and allowance fixed by the tables of the regular Army or Air Force of the United States, the latter shall prevail."

SECTION 7. Section 26-56, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The commission shall review and recommend an appropriate salary for the governor, lieutenant governor, members of the legislature, justices and judges of all state courts, administrative director of the State or an equivalent position, and department heads or executive officers and the deputies or assistants to the department heads of the departments of:

(1) Accounting and general services;

(2) Agriculture;

(3) Airports;



- 1 [~~(3)~~] (4) The attorney general;
2 [~~(4)~~] (5) Budget and finance;
3 [~~(5)~~] (6) Business, economic development, and tourism;
4 [~~(6)~~] (7) Commerce and consumer affairs;
5 [~~(7)~~] (8) Defense;
6 [~~(8)~~] (9) Hawaiian home lands;
7 [~~(9)~~] (10) Health;
8 [~~(10)~~] (11) Human resources development;
9 [~~(11)~~] (12) Human services;
10 [~~(12)~~] (13) Labor and industrial relations;
11 [~~(13)~~] (14) Land and natural resources;
12 [~~(14)~~] (15) Public safety;
13 [~~(15)~~] (16) Taxation; and
14 [~~(16)~~] (17) Transportation.

15 The commission shall not review the salary of any position
16 in the department of education or the University of Hawaii.

17 The commission may recommend different salaries for
18 department heads and executive officers and different salary
19 ranges for deputies or assistants to department heads; provided
20 that the commission shall recommend the same salary range for
21 deputies or assistants to department heads within the same



1 department; provided further that the appointing official shall
2 specify the salary for a particular position within the
3 applicable range.

4 The commission shall not recommend salaries lower than
5 salary amounts recommended by prior commissions replaced by this
6 section."

7 SECTION 8. Section 76-16, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) The civil service to which this chapter applies shall
10 comprise all positions in the State now existing or hereafter
11 established and embrace all personal services performed for the
12 State, except the following:

13 (1) Commissioned and enlisted personnel of the Hawaii
14 National Guard as such, and positions in the Hawaii
15 National Guard that are required by state or federal
16 laws or regulations or orders of the National Guard to
17 be filled from those commissioned or enlisted
18 personnel;

19 (2) Positions filled by persons employed by contract where
20 the director of human resources development has
21 certified that the service is special or unique or is



1 essential to the public interest and that, because of
2 circumstances surrounding its fulfillment, personnel
3 to perform the service cannot be obtained through
4 normal civil service recruitment procedures. Any such
5 contract may be for any period not exceeding one year;

6 (3) Positions that must be filled without delay to comply
7 with a court order or decree if the director
8 determines that recruitment through normal recruitment
9 civil service procedures would result in delay or
10 noncompliance, such as the Felix-Cayetano consent
11 decree;

12 (4) Positions filled by the legislature or by either house
13 or any committee thereof;

14 (5) Employees in the office of the governor and office of
15 the lieutenant governor, and household employees at
16 Washington Place;

17 (6) Positions filled by popular vote;

18 (7) Department heads, officers, and members of any board,
19 commission, or other state agency whose appointments
20 are made by the governor or are required by law to be
21 confirmed by the senate;



1 (8) Judges, referees, receivers, masters, jurors, notaries
2 public, land court examiners, court commissioners, and
3 attorneys appointed by a state court for a special
4 temporary service;

5 (9) One bailiff for the chief justice of the supreme court
6 who shall have the powers and duties of a court
7 officer and bailiff under section 606-14; one
8 secretary or clerk for each justice of the supreme
9 court, each judge of the intermediate appellate court,
10 and each judge of the circuit court; one secretary for
11 the judicial council; one deputy administrative
12 director of the courts; three law clerks for the chief
13 justice of the supreme court, two law clerks for each
14 associate justice of the supreme court and each judge
15 of the intermediate appellate court, one law clerk for
16 each judge of the circuit court, two additional law
17 clerks for the civil administrative judge of the
18 circuit court of the first circuit, two additional law
19 clerks for the criminal administrative judge of the
20 circuit court of the first circuit, one additional law
21 clerk for the senior judge of the family court of the



1 first circuit, two additional law clerks for the civil
2 motions judge of the circuit court of the first
3 circuit, two additional law clerks for the criminal
4 motions judge of the circuit court of the first
5 circuit, and two law clerks for the administrative
6 judge of the district court of the first circuit; and
7 one private secretary for the administrative director
8 of the courts, the deputy administrative director of
9 the courts, each department head, each deputy or first
10 assistant, and each additional deputy, or assistant
11 deputy, or assistant defined in paragraph (16);

12 (10) First deputy and deputy attorneys general, the
13 administrative services manager of the department of
14 the attorney general, one secretary for the
15 administrative services manager, an administrator and
16 any support staff for the criminal and juvenile
17 justice resources coordination functions, and law
18 clerks;

19 (11) (A) Teachers, principals, vice-principals, complex
20 area superintendents, deputy and assistant
21 superintendents, other certificated personnel,



1 not more than twenty noncertificated
2 administrative, professional, and technical
3 personnel not engaged in instructional work;

4 (B) Effective July 1, 2003, teaching assistants,
5 educational assistants, bilingual/bicultural
6 school-home assistants, school psychologists,
7 psychological examiners, speech pathologists,
8 athletic health care trainers, alternative school
9 work study assistants, alternative school
10 educational/supportive services specialists,
11 alternative school project coordinators, and
12 communications aides in the department of
13 education;

14 (C) The special assistant to the state librarian and
15 one secretary for the special assistant to the
16 state librarian; and

17 (D) Members of the faculty of the University of
18 Hawaii, including research workers, extension
19 agents, personnel engaged in instructional work,
20 and administrative, professional, and technical
21 personnel of the university;



- 1 (12) Employees engaged in special, research, or
- 2 demonstration projects approved by the governor;
- 3 (13) (A) Positions filled by inmates, patients of state
- 4 institutions, persons with severe physical or
- 5 mental disabilities participating in the work
- 6 experience training programs;
- 7 (B) Positions filled with students in accordance with
- 8 guidelines for established state employment
- 9 programs; and
- 10 (C) Positions that provide work experience training
- 11 or temporary public service employment that are
- 12 filled by persons entering the workforce or
- 13 persons transitioning into other careers under
- 14 programs such as the federal Workforce Investment
- 15 Act of 1998, as amended, or the Senior Community
- 16 Service Employment Program of the Employment and
- 17 Training Administration of the United States
- 18 department of Labor, or under other similar state
- 19 programs;
- 20 (14) A custodian or guide at Iolani Palace, the Royal
- 21 Mausoleum, and Hulihee Palace;



1 (15) Positions filled by persons employed on a fee,
2 contract, or piecework basis, who may lawfully perform
3 their duties concurrently with their private business
4 or profession or other private employment and whose
5 duties require only a portion of their time, if it is
6 impracticable to ascertain or anticipate the portion
7 of time to be devoted to the service of the State;

8 (16) Positions of first deputies or first assistants of
9 each department head appointed under or in the manner
10 provided in section 6, article V, of the Hawaii State
11 Constitution; [~~three~~] two additional deputies or
12 assistants either in charge of the highways[~~7~~] and
13 harbors[~~7~~ and airports] divisions or other functions
14 within the department of transportation as may be
15 assigned by the director of transportation, with the
16 approval of the governor; four additional deputies in
17 the department of health, each in charge of one of the
18 following: behavioral health, environmental health,
19 hospitals, and health resources administration,
20 including other functions within the department as may
21 be assigned by the director of health, with the



1 approval of the governor; an administrative assistant
2 to the state librarian; and an administrative
3 assistant to the superintendent of education;

4 (17) Positions specifically exempted from this part by any
5 other law; provided that:

6 (A) Any exemption created after July 1, 2014, shall
7 expire three years after its enactment unless
8 affirmatively extended by an act of the
9 legislature; and

10 (B) All of the positions defined by paragraph (9)
11 shall be included in the position classification
12 plan;

13 (18) Positions in the state foster grandparent program and
14 positions for temporary employment of senior citizens
15 in occupations in which there is a severe personnel
16 shortage or in special projects;

17 (19) Household employees at the official residence of the
18 president of the University of Hawaii;

19 (20) Employees in the department of education engaged in
20 the supervision of students during meal periods in the
21 distribution, collection, and counting of meal



1 tickets, and in the cleaning of classrooms after
2 school hours on a less than half-time basis;

3 (21) Employees hired under the tenant hire program of the
4 Hawaii public housing authority; provided that not
5 more than twenty-six per cent of the authority's
6 workforce in any housing project maintained or
7 operated by the authority shall be hired under the
8 tenant hire program;

9 (22) Positions of the federally funded expanded food and
10 nutrition program of the University of Hawaii that
11 require the hiring of nutrition program assistants who
12 live in the areas they serve;

13 (23) Positions filled by persons with severe disabilities
14 who are certified by the state vocational
15 rehabilitation office that they are able to perform
16 safely the duties of the positions;

17 (24) The sheriff;

18 (25) A gender and other fairness coordinator hired by the
19 judiciary;

20 (26) Positions in the Hawaii National Guard youth and adult
21 education programs; and



(27) In the state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 9. Section 102-14, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) This section shall not apply to the judiciary history center facilities in the Ali'iolani Hale building, University of Hawai'i system, public library system facilities, department of education facilities, department of transportation [~~airport and~~] harbor restaurant and lounge facilities and operations, department of airports restaurant and lounge facilities and operations, public parks, and state and county facilities designed and intended for use as facilities for entertainment and other public events."

SECTION 10. Section 171-24, Hawaii Revised Statutes, is amended to read as follows:



1 "§171-24 Land conveyances, preparation, signing, record,
2 copies. Except for the preparation and execution of leases and
3 licenses and the issuance of revocable permits and rights of
4 entry by the department of airports and by the department of
5 transportation, in its harbor [~~and airport~~] functions, all land
6 patents, deeds, leases, grants, or other conveyances of any
7 public land or any interest therein, shall be prepared by the
8 department of land and natural resources. The department of
9 transportation and department of airports, as applicable, shall,
10 within thirty days after the execution or issuance of such
11 documents, file or record as directed by the board of land and
12 natural resources the original of the same with the board.

13 Documents setting aside lands for public purposes or
14 withdrawing the same shall be signed by the governor. All other
15 documents prepared by the department of land and natural
16 resources shall be signed by its chairperson or any authorized
17 employee.

18 The board shall keep a complete record of all such
19 documents. The record shall be open to public inspection and
20 the board shall furnish a certified copy, under its official
21 seal, of any document to any person applying therefor, upon



1 payment of reasonable charges set by the board for certified
2 copies."

3 SECTION 11. Section 286-26, Hawaii Revised Statutes, is
4 amended by amending subsection (h) to read as follows:

5 "(h) This section shall not apply to:

6 (1) Any motor vehicle which is covered by part XI,
7 governing safety of motor carrier vehicle operation
8 and equipment; provided that the rules adopted
9 pursuant to part IA impose standards of inspection at
10 least as strict as those imposed under subsection (g)
11 and that certification is required at least as often
12 as provided in subsections (a), (b), (c), and (d);

13 (2) Aircraft servicing vehicles that are being used
14 exclusively on lands [~~set aside to~~] held by the
15 department of [~~transportation for airport purposes,~~]
16 airports; and

17 (3) Tractor trucks, forklifts, and top picks being used as
18 marine terminal equipment temporarily moving in or
19 between terminals at Sand Island and along Sand Island
20 Parkway and Sand Island Access Road."



1 SECTION 12. Section 286-41, Hawaii Revised Statutes, is
2 amended by amending subsection (f) to read as follows:

3 "(f) The provisions of this part requiring the
4 registration of motor vehicles shall not apply to:

5 (1) Special mobile equipment;

6 (2) Implements of husbandry temporarily drawn, moved, or
7 otherwise propelled upon the public highways;

8 (3) Aircraft servicing vehicles which are being used
9 exclusively on lands [~~set aside to~~] held by the
10 department of [~~transportation for airport purposes,~~]
11 airports; and

12 (4) Tractor trucks, forklifts, and top picks being used as
13 marine terminal equipment temporarily moving in or
14 between terminals at Sand Island and along Sand Island
15 Parkway and Sand Island Access Road."

16 SECTION 13. Section 437D-8.4, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Notwithstanding any law to the contrary, a lessor may
19 visibly pass on to a lessee:

20 (1) The general excise tax attributable to the
21 transaction;



- 1 (2) The vehicle license recovery fees, prorated at 1/292nd
2 of the annual vehicle license recovery fees actually
3 paid on the particular vehicle being rented for each
4 full or partial twenty-four-hour rental day that the
5 vehicle is rented; provided the total of all vehicle
6 license recovery fees charged to all lessees shall not
7 exceed the annual vehicle license recovery fees
8 actually paid for the particular vehicle rented;
- 9 (3) The surcharge taxes imposed in chapter 251
10 attributable to the transaction;
- 11 (4) The county surcharge on state tax under section 46-
12 16.8; provided that the lessor itemizes the tax for
13 the lessee; [and]
- 14 (5) The rents or fees paid to the department of
15 [~~transportation~~] airports under concession contracts
16 negotiated pursuant to chapter 102, service permits
17 granted pursuant to title 19, Hawaii Administrative
18 Rules, or rental motor vehicle customer facility
19 charges established pursuant to section 261-7;
20 provided that:



1 (A) The rents or fees are limited to amounts that can
2 be attributed to the proceeds of the particular
3 transaction;

4 (B) The rents or fees shall not exceed the lessor's
5 net payments to the department of
6 ~~[transportation]~~ airports made under concession
7 contract or service permit;

8 (C) The lessor submits to the department of
9 ~~[transportation]~~ airports and the department of
10 commerce and consumer affairs a statement,
11 verified by a certified public accountant as
12 correct, that reports the amounts of the rents or
13 fees paid to the department of ~~[transportation]~~
14 airports pursuant to the applicable concession
15 contract or service permit:

16 (i) For all airport locations; and

17 (ii) For each airport location;

18 (D) The lessor submits to the department of
19 ~~[transportation]~~ airports and the department of
20 commerce and consumer affairs a statement,
21 verified by a certified public accountant as



correct, that reports the amounts charged to lessees:

(i) For all airport locations;

(ii) For each airport location; and

(iii) For each lessee;

(E) The lessor includes in these reports the methodology used to determine the amount of fees charged to each lessee; and

(F) The lessor submits the above information to the department of ~~transportation~~ airports and the department of commerce and consumer affairs within three months of the end of the preceding annual accounting period or contract year as determined by the applicable concession agreement or service permit[-];

(6) The rents or fees paid to the department of transportation under concession contracts negotiated pursuant to chapter 102 or service permits granted pursuant to title 19, Hawaii Administrative Rules; provided that:



1 (A) The rents or fees are limited to amounts that can
2 be attributed to the proceeds of the particular
3 transaction;

4 (B) The rents or fees shall not exceed the lessor's
5 net payments to the department of transportation
6 made under concession contract or service permit;

7 (C) The lessor submits to the department of
8 transportation and the department of commerce and
9 consumer affairs a statement, verified by a
10 certified public accountant as correct, that
11 reports the amounts charged to lessees for each
12 lessee;

13 (D) The lessor includes in these reports the
14 methodology used to determine the amount of fees
15 charged to each lessee; and

16 (E) The lessor submits the above information to the
17 department of transportation and the department
18 of commerce and consumer affairs within three
19 months of the end of the preceding annual
20 accounting period or contract year as determined



1 by the applicable concession agreement or service
2 permit.

3 The respective departments, in their sole discretion,
4 may extend the time to submit the statement required
5 in this subsection. If the director determines that
6 an examination of the lessor's information is
7 inappropriate under this subsection and the lessor
8 fails to correct the matter within ninety days, the
9 director may conduct an examination and charge a
10 lessor an examination fee based upon the cost per hour
11 per examiner for evaluating, investigating, and
12 verifying compliance with this subsection, as well as
13 additional amounts for travel, per diem, mileage, and
14 other reasonable expenses incurred in connection with
15 the examination, which shall relate solely to the
16 requirements of this subsection, and which shall be
17 billed by the departments as soon as feasible after
18 the close of the examination. The cost per hour shall
19 be \$40 or as may be established by rules adopted by
20 the director. The lessor shall pay the amounts billed
21 within thirty days following the billing. All moneys



1 collected by the director shall be credited to the
2 compliance resolution fund."

3 SECTION 14. On and after the transfer completion date
4 established by the department of airports in section 16(b) of
5 this Act and thereafter, every reference to the department of
6 transportation in chapters 261, 261D, and 262, Hawaii Revised
7 Statutes, shall be a reference to the department of airports,
8 and every reference to the director of transportation in
9 chapters 261, 261D, and 262, Hawaii Revised Statutes, shall be a
10 reference to the director of airports. After the transfer
11 completion date but no later than when the subsequent
12 supplements to the Hawaii Revised Statutes are prepared, the
13 revisor of statutes shall substitute the phrase "director of
14 airports" for the term "director of transportation" and the term
15 "department of airports" for the term "department of
16 transportation" in chapters 261, 261D, and 262, Hawaii Revised
17 Statutes. In codifying the new section added by section 2 of
18 this Act, the revisor of statutes shall substitute the
19 appropriate section number for the letter used in designating
20 the new sections in this Act.



1 SECTION 15. The department of airports shall succeed to
2 the jurisdiction, powers, and responsibilities of the department
3 of transportation over aeronautics and airports, including all
4 of the functions relating to airports and aeronautics performed
5 by the department and its airports division, on the transfer
6 completion date announced by the department of airports pursuant
7 to section 16(b) of this Act, which date shall be no sooner than
8 , and no later than .

9 Thereafter, to the extent that the department of airports
10 is authorized in this Act to exercise powers and duties which
11 are also granted to other departments, offices, or boards of the
12 State, with respect to airports and aeronautical facilities, the
13 department of airports shall exclusively exercise such powers
14 and perform such duties.

15 SECTION 16. (a) Within ninety days of the effective date
16 of this Act, the governor shall designate a representative who
17 shall facilitate the department of airport's orderly succession
18 to the jurisdiction, powers, functions, rights, benefits,
19 obligations, assets, liabilities, funds, accounts, contracts,
20 and all other things currently held, used, incurred, or
21 performed by the department of transportation, its director and



1 staff, and its airports division, in exercising the authority
2 and fulfilling the responsibilities conferred upon the
3 department of transportation and the director of transportation,
4 by chapters 261, 261D, and 262, Hawaii Revised Statutes. With
5 regard to employees of the department of transportation,
6 airports division, those employees covered by chapter 76, Hawaii
7 Revised Statutes, shall maintain their status at the time of the
8 succession to the authority.

9 Within one hundred eighty days of the effective date of
10 this Act, the governor shall appoint the director of airports.

11 To facilitate the department of airport's timely assumption
12 of the department of transportation's authority and
13 responsibilities, including all of the department of
14 transportation's associated bonds, notes, and obligations as
15 described in paragraph (6) below, the department of
16 transportation, the department of accounting and general
17 services, the department of human resources development, the
18 state procurement office, and any other state department or
19 agency shall, if requested by the department of airports, enter
20 into a memorandum of understanding with the department of
21 airports to:



- 1 (1) Provide administrative support services for the
2 department of airports pending the transfer of
3 employees from the department of transportation to the
4 department of airports pursuant to section 20 of this
5 Act;
- 6 (2) Assist the department of airports with the
7 organization of its human resources development
8 functions, including establishing:
- 9 (A) A human resources office;
- 10 (B) The department of airport's civil service and
11 civil service positions, and the classification
12 system, merit appeals board, recruitment system,
13 performance appraisal system, and the
14 administrative rules, policies, standards, and
15 procedures, including internal complaint
16 procedures, adopted to support its civil service;
17 and
- 18 (C) The department of airport's exempt and excluded
19 positions, and guidelines, procedures, and
20 policies for filling them, and compensating the
21 officers and employees who fill them;



1 (3) Assist the department of airports in establishing its
2 accounting, budgeting, fund management, and
3 communication and electronic information systems, and
4 creating appropriate interfaces between the department
5 of airports' accounting, budgeting, fund management,
6 communication and electronic information systems, and
7 those of the department of transportation, and other
8 state agencies;

9 (4) Assist the department of airports in identifying the
10 plans and reports that departments and agencies
11 administratively attached to a department are required
12 to prepare for the governor, the legislature or
13 another state department or agency with respect to
14 aeronautics or the state's airport system; determining
15 whether such plans and reports have been prepared and
16 will be transferred to the department of airports on
17 the transfer completion date; and preparing the same
18 for the department of airports, if they do not exist;

19 (5) Expeditiously transfer or otherwise facilitate the
20 department of airport's acquisition or assumption of
21 all of the powers, functions, rights, benefits,



1 obligations, assets, funds, accounts, contracts, and
2 all other things held, used, incurred, or performed by
3 the department of transportation, its director and
4 staff, and its airports division, in exercising the
5 authority and fulfilling the responsibilities
6 conferred upon the department of transportation and
7 the director of transportation by chapters 261, 261D,
8 and 262, Hawaii Revised Statutes;

9 (6) Assign and transfer that certain Certificate of the
10 Director of Transportation Providing for the Issuance
11 of State of Hawaii Airports System Revenue Bonds dated
12 as of May 1, 1969, relating to certain revenue bonds
13 and other obligations; that certain Indenture of Trust
14 dated as of December 1, 2013, between the department
15 of transportation and U.S. Bank National Association
16 relating to certain certificates of participation; and
17 that certain Indenture of Trust dated as of August 1,
18 2014, between the department of transportation and
19 MUFG Union Bank, N.A., relating to certain customer
20 facility charge revenue bonds, each as supplemented
21 and amended to date; the assumption of all



1 indebtedness of the department of transportation
2 heretofore issued and outstanding thereunder; and the
3 adoption of policies and procedures designed to ensure
4 continuing compliance with the terms thereof for so
5 long as they are applicable; and

6 (7) Reimburse each cooperating department or agency for
7 the cost of services provided under the memorandum of
8 understanding.

9 (b) As soon as feasible, the director of airports, with
10 the concurrence of the director of transportation and the
11 governor, shall establish the transfer completion date, which
12 shall be no sooner than , and no later than , and
13 publish notice of the transfer completion date by:

14 (1) Publishing the notice in a daily publication of
15 statewide circulation pursuant to section 1-28.5,
16 Hawaii Revised Statutes;

17 (2) Posting a copy of the notice on an electronic calendar
18 on a website maintained by the State;

19 (3) Providing a copy of the notice to the department of
20 transportation, the secretaries of the United States
21 department of Transportation and department of



1 Defense, the head of the Federal Aviation
2 Administration, and the head of every other state
3 department; and

4 (4) Posting the notice prominently at every airport and
5 air navigation facility in the State.

6 All notices shall be published, distributed, or posted at least
7 ninety days before the transfer completion date.

8 SECTION 17. It is the intent of this Act not to jeopardize
9 the receipt of any federal aid nor to impair any existing
10 federal income tax exemption to, security interest of, or
11 obligation of the State or any agency thereof to the holders of
12 any bonds or other obligations issued by the State or by any
13 department or agency of the State, and to the extent, and only
14 to the extent necessary to effectuate this intent, the governor
15 may modify the strict provisions of this Act, but shall promptly
16 report any such modification with reasons therefor to the
17 legislature at its next session thereafter for review by the
18 legislature.

19 SECTION 18. This Act does not affect rights and duties
20 that matured, penalties that were incurred, and proceedings that
21 were begun before its effective date. The department of



1 transportation shall be responsible for any and all obligations
2 incurred by the department or its airports division in
3 connection with the department's exercise of the authority and
4 performance of the duties and responsibilities conferred upon it
5 and its director by chapters 261, 261D, and 262, Hawaii Revised
6 Statutes, until such time as such obligations have been assumed
7 by the department of airports, including any accounts payable,
8 accrued paid time off, debt, capital leases, and other
9 obligations incurred before the transfer completion date. All
10 collective bargaining disputes or claims against the department
11 of transportation grounded in an act or omission, or an event
12 that occurred prior to the transfer completion date shall remain
13 the responsibility of the department of transportation. All
14 liabilities arising out of the department of airports' exercise
15 of the authority and performance of the duties and
16 responsibilities conferred upon it and its director by chapters
17 261, 261D, and 262, Hawaii Revised Statutes, after the transfer
18 completion date shall be the responsibility of the department of
19 airports. The assumption by the department of airports of the
20 bonds, notes, or other obligations of the department of
21 transportation relating to the state's airports system shall be



1 subject to the terms and provisions of any certificate,
2 indenture, or resolution securing such bonds, notes, or other
3 obligations. After the transfer completion date, the department
4 of airports shall assume responsibility for all rights, duties,
5 penalties, and proceedings of the department of transportation
6 related to the State's airports system.

7 SECTION 19. The State of Hawaii pledges to and agrees with
8 the holders of the bonds, notes, or other obligations of the
9 department of transportation being assumed by the department of
10 airports on the transfer completion date and the holders of the
11 bonds, notes, or other obligations of the department of airports
12 issued pursuant to chapters 37D or 39, Hawaii Revised Statutes,
13 that the State shall not limit or alter the rights and powers
14 vested in the department of airports so as to impair the terms
15 of any contract made or assumed by the department of airports
16 with such holders or in any way impair the rights and remedies
17 of such holders until such bonds, notes, or other obligations,
18 together with interest thereon, with interest on any unpaid
19 installments of interest, and all costs and expenses in
20 connection with any action or proceedings by or on behalf of
21 such holders, are fully met and discharged. In addition, the



1 State pledges to and agrees with the holders of the bonds,
2 notes, or other obligations of the department of transportation
3 being assumed by the department of airports on the transfer
4 completion date and the holders of the bonds, notes, or other
5 obligations of the department of airports issued pursuant to
6 chapter 37D or 39, Hawaii Revised Statutes, that the State shall
7 not limit or alter the basis on which the revenues or user taxes
8 securing any such bonds, notes, or other obligations issued or
9 assumed by the department of airports are to be received by the
10 department of airports, or the rights of the department of
11 airports to the use of such funds, so as to impair the terms of
12 any such contract securing the same. The department of airports
13 is authorized to include these pledges and agreements of the
14 State in any contract with the holders of bonds, notes, or other
15 obligations issued pursuant to chapter 37D or 39, Hawaii Revised
16 Statutes.

17 SECTION 20. The department of airports shall recognize all
18 bargaining units and collective bargaining agreements existing
19 at the time of transfer to the department of airports. All
20 employees who occupy civil service positions and whose functions
21 are transferred to the department of airports by this Act shall



1 retain their civil service status, whether permanent or
2 temporary. The employees shall be transferred to the department
3 of airports without loss of salary, seniority (except as
4 prescribed by applicable collective bargaining agreements),
5 retention points, prior service credits, any vacation and sick
6 leave credits previously earned, and other rights, benefits, and
7 privileges, in accordance with state personnel laws and this
8 Act; provided that the employees meet applicable requirements
9 for the class or position to which transferred or appointed, as
10 applicable.

11 Any employee who, prior to this Act, is a member of a
12 bargaining unit, may remain in that bargaining unit when future
13 collective bargaining agreements are negotiated.

14 Any employee who, prior to this Act, is exempt from civil
15 service and is transferred to the department of airports as a
16 consequence of this Act may retain the employee's exempt status,
17 but shall not be appointed to a civil service position as a
18 consequence of this Act. An exempt employee who is transferred
19 by this Act shall not suffer any loss of prior service credit,
20 vacation or sick leave credits previously earned, or other
21 employee benefits or privileges as a consequence of this Act.



1 The director of airports may prescribe the duties and
2 qualifications of these employees and fix their salaries without
3 regard to chapter 76, Hawaii Revised Statutes.

4 No employee included in a collective bargaining unit as an
5 employee of the department of transportation shall be laid off
6 as a consequence of this Act.

7 SECTION 21. On or no more than ninety days after the
8 transfer completion date, all appropriations, records,
9 equipment, machines, files, supplies, contracts, books, papers,
10 documents, maps, and other personal property heretofore made,
11 used, acquired, or held by the department of transportation
12 relating to the functions transferred to the department of
13 airports shall be transferred with the functions to which they
14 relate.

15 SECTION 22. All rules, policies, procedures, guidelines,
16 and other material adopted or developed by the department of
17 transportation to implement provisions of the Hawaii Revised
18 Statutes that are reenacted or made applicable to the department
19 of airports by this Act shall remain in full force and effect on
20 and after the transfer completion date established pursuant to
21 section 16(b) of this Act, until amended or repealed by the



1 department of airports pursuant to chapter 91, Hawaii Revised
2 Statutes. In the interim, every reference to the department of
3 transportation or director of transportation in those rules,
4 policies, procedures, guidelines, and other material is amended
5 to refer to the department of airports or director of airports,
6 as appropriate.

7 SECTION 23. All deeds, executive orders, leases,
8 contracts, loans, agreements, permits, or other documents
9 executed or entered into by or on behalf of the department of
10 transportation, pursuant to the provisions of the Hawaii Revised
11 Statutes, that are reenacted or made applicable to the
12 department of airports by this Act shall remain in full force
13 and effect. On the transfer completion date established
14 pursuant to section 16(b) of this Act, every reference to the
15 department of transportation in those deeds, executive orders,
16 leases, contracts, loans, agreements, permits or other documents
17 shall be construed as a reference to the department of airports.

18 SECTION 24. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$ or so
20 much thereof as may be necessary for fiscal year 2018-2019, to
21 effect the transfer of functions from the department of



1 transportation to the department of airports required by this
2 Act.

3 The sum appropriated shall be expended by the department of
4 airports to implement the provisions of this Act.

5 SECTION 25. If any provision of this Act, or the
6 application thereof to any person or circumstance, is held
7 invalid, the invalidity does not affect other provisions or
8 applications of the Act that can be given effect without the
9 invalid provision or application, and to this end the provisions
10 of this Act are severable.

11 SECTION 26. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 27. This Act shall take effect on July 1, 2018.
14

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H.B. NO. 2637

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JAN 24 2018



H.B. NO. 2637

Report Title:

Department of Airports; Department of Transportation;
Aeronautics; Transfer of Functions; Appropriation

Description:

Establishes the department of airports. Transfers the airport and aeronautics functions of DOT to the department of airports by the established transfer completion date agreed upon by the director of airports, the director of transportation, and the governor. Appropriates funds.

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