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# 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.

9 (b) The powers of the airport corporation shall be vested  
10 in and exercised by a board of directors, which shall consist of  
11 nine voting members, who shall be appointed by the governor  
12 pursuant to section 26-34; provided that there shall be one  
13 member representing each of the islands of Hawaii, Kauai, Maui,  
14 and Oahu. Members shall be removed from office by the governor  
15 only for inefficiency, neglect of duty, turpitude, or misconduct  
16 in office after giving the member a copy of the charges against  
17 the member and allowing the member an opportunity to be heard,  
18 in person or by counsel, upon not less than ten days notice.

19 Members shall have relevant business and management  
20 experience, including experience in one or more of the following  
21 disciplines: financial planning, budgeting, hospitality,



1 tourism, commercial development, construction program  
2 management, marketing, law, or aviation.

3 Except as provided in this chapter, no member appointed  
4 under this section shall be an officer or employee of the State  
5 or the counties.

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

- 9 (1) Not be a member of the board;
- 10 (2) Serve at the pleasure of the board; and
- 11 (3) Receive such compensation as shall be fixed by the  
12 board.
- 13 (d) The chief executive officer:
- 14 (1) Shall be selected based on criteria approved by the  
15 board, including experience in airport management at  
16 an executive level at a large- or medium-hub airport  
17 within the United States, management of significant  
18 scale capital programs, and domestic and international  
19 air service development;
- 20 (2) Shall be appointed by a majority vote of the members  
21 of the board;



- 1           (3) Shall be employed subject to a formal contract, the  
2           terms of which shall be approved by the board;  
3           provided that the:
- 4           (A) Terms shall include provisions for the removal of  
5           the chief executive officer with and without  
6           cause; and
- 7           (B) Salary established by the contract shall not  
8           exceed the salary of any deputy director of  
9           transportation;
- 10          (4) May be removed from office only by a vote of not less  
11          than five members of the board; provided that the  
12          basis for removal is consistent with the terms of the  
13          applicable employment contract;
- 14          (5) May establish management organization structures;
- 15          (6) May appoint one deputy executive officer, as the chief  
16          executive officer deems appropriate, who shall be  
17          exempt from chapter 76. The deputy executive officer  
18          shall exercise those powers that may be delegated by  
19          the chief executive officer;
- 20          (7) Shall have such powers as described in this chapter  
21          and as may be delegated by the members of the board;



- 1           (8) Shall attend all meetings of the board, keep a record  
2           of the proceedings, and shall maintain and be the  
3           custodian of all books, records, documents, and papers  
4           filed with the corporation, of the minute book of the  
5           corporation, and of its official seal;
- 6           (9) Shall direct and supervise the corporation's  
7           administrative affairs and technical activities in  
8           accordance with the directives of the board;
- 9           (10) Shall approve all accounts for salaries and allowable  
10          expenses of the corporation or of any employee or  
11          consultant thereof;
- 12          (11) May hire employees, subject to chapters 76 and 89, to  
13          fill positions provided for in the airport  
14          corporation's annual budget; provided that the  
15          functions and duties of all positions shall be  
16          provided for in the bylaws of the airport corporation;  
17          and
- 18          (12) Shall perform such other duties as may be directed by  
19          the board in carrying out the purpose of the  
20          corporation.



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

6 (f) The number of members of the board necessary to  
7 constitute a quorum to do business shall be a majority of the  
8 members.

9 § -3 Powers; generally. (a) Except as otherwise  
10 provided in this chapter, the airport corporation:

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

15 (2) Shall exercise general supervision over aeronautics  
16 within the State and, in connection therewith,  
17 encourage, foster, and assist in the development of  
18 aeronautics in the State, and encourage the  
19 establishment of airports and air navigation  
20 facilities;



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



- 1 (10) Shall employ employees subject to chapters 76 and 89;
- 2 (11) May use the facilities and services of any department,  
3 board, commission, or agency of the State or counties,  
4 if permitted pursuant to memoranda of understanding  
5 approved by the board;
- 6 (12) May sue and be sued;
- 7 (13) Shall have a seal and may alter the seal at its  
8 pleasure;
- 9 (14) May make and execute contracts and all other  
10 instruments necessary or convenient for the exercise  
11 of its powers and functions under this chapter;
- 12 (15) Shall establish bylaws for its organization and  
13 internal management;
- 14 (16) Shall adopt an annual budget for its operations,  
15 maintenance, and capital improvements, pursuant to  
16 chapter 37;
- 17 (17) May own, sell, lease, hold, clear, improve, and  
18 rehabilitate real, personal, or mixed property, and  
19 assign, exchange, transfer, convey, lease, sublease,  
20 or encumber any airport, or any project, improvement,  
21 or facility related thereto; provided that the



1 corporation and corporation lands shall not be subject  
2 to chapter 171;

3 (18) May develop, construct, reconstruct, rehabilitate,  
4 improve, alter, repair, or provide for the  
5 development, construction, reconstruction,  
6 rehabilitation, improvement, alteration, or repair of,  
7 any airport, or any project, improvement, or facility  
8 related to airports controlled by the corporation or  
9 located on land controlled by the corporation;

10 (19) May arrange or initiate appropriate action for the:  
11 (A) Furnishing of facilities;  
12 (B) Acquisition of property or property rights; and  
13 (C) Furnishing of property, development rights, or  
14 services in connection with any airport or any  
15 project, improvement, or facility related to  
16 airports controlled by the corporation;

17 (20) May grant options or renew any lease entered into by  
18 it in connection with any project, on terms and  
19 conditions as it deems advisable;



- 1           (21) May engage the services of consultants on a  
2                   contractual basis for rendering professional and  
3                   technical assistance and advice;
- 4           (22) Shall procure insurance against any loss in connection  
5                   with its property and other assets and operations, in  
6                   such amounts and from such insurers as it deems  
7                   desirable, or provide for self-insurance;
- 8           (23) May accept and receive gifts or grants in any form  
9                   from any person, public entity, or source; provided  
10                  that the grants and gifts shall be used for airport  
11                  corporation purposes;
- 12          (24) May pledge or assign all or any part of the moneys,  
13                  fees, rents, charges, or other revenues and proceeds  
14                  derived by the airport corporation from the proceeds  
15                  of insurance or condemnation awards for the loss of  
16                  revenues or incurring of costs and expenses because of  
17                  any action taken by the airport corporation;
- 18          (25) Shall fix, impose, prescribe, and collect rates,  
19                  rentals, fees, or charges for the lease, use, and  
20                  services of its airport facilities at least sufficient  
21                  to pay the costs of operation, maintenance, and



1 repair, if any, and the required payments of the  
2 principal of, and interest on, all bonds issued or  
3 assumed by the airport corporation and reserves  
4 therefor;

5 (26) May take all actions necessary under emergencies such  
6 as hurricanes, tsunamis, and other natural disasters;

7 (27) Shall plan, construct, operate, and maintain all  
8 airport facilities in the State;

9 (28) Subject to legislative authorization or appropriation,  
10 may allot airport funds, issue revenue bonds and  
11 special facility revenue bonds in its name pursuant to  
12 chapter 39, but not in excess of such principal  
13 amounts as are necessary for its purposes or specified  
14 in covenants with bondholders;

15 (29) May invest and secure its moneys in accordance with  
16 chapters 36 and 38;

17 (30) May take public and private property for use in  
18 furthering any of the purposes of the airport  
19 corporation; provided that all proceedings for  
20 condemnation shall be conducted in accordance with  
21 chapter 101;



1 (31) May provide compensation, allowance, or other  
2 assistance to any person for relocation or  
3 displacement caused by the acquisition of land for  
4 airport purposes;

5 (32) May hire or contract law enforcement personnel;

6 (33) May license all airports and heliports within the  
7 State, pursuant to all federal and state rules and  
8 regulations, as well as the procedures of the airport  
9 corporation;

10 (34) May approve all safety, security, and federal  
11 certification plans, procedures, and specifications  
12 related to the operation, management, and development  
13 of all airports and heliports within the State; and

14 (35) May do any and all things necessary to carry out its  
15 powers and duties pursuant to this chapter.

16 (b) The corporation shall adopt rules pursuant to chapter  
17 91 to carry out the purpose of this chapter."

18 SECTION 3. Section 261-1, Hawaii Revised Statutes, is  
19 amended as follows:

20 1. By adding a new definition to be appropriately inserted  
21 and to read as follows:



1        "Chief executive officer" means the chief executive  
2 officer of the Hawaii airport corporation."

3        2. By repealing the definition of "director".

4        [~~"Director" means the director of transportation."~~]

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

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

20        SECTION 5. The Hawaii airport corporation shall be a  
21 successor agency, and jurisdiction over aeronautics and



1 airports, including airport functions under the department of  
2 transportation's airports division, shall be transferred to the  
3 Hawaii airport corporation on July 1, 2018.

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

11 SECTION 6. The State shall facilitate the corporation's  
12 governance over airports and provide an orderly transition of  
13 ownership, jurisdiction, assets, liabilities, powers, funds,  
14 accounts, contracts, employees, and any other rights, benefits,  
15 or obligations, and authority to control, operate, develop, and  
16 maintain airports and aeronautical facilities from the  
17 department of transportation to the corporation prior to July 1,  
18 2018.

19 SECTION 7. The revisor of statutes shall substitute the  
20 phrase "chief executive officer" in chapter 261, Hawaii Revised  
21 Statutes, wherever the terms "director" or "director of



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

4 SECTION 8. The revisor of statutes shall substitute the  
5 phrase "Hawaii airport corporation" in chapter 261, Hawaii  
6 Revised Statutes, wherever the terms "department" or "department  
7 of transportation" appear, except for the amendments made to  
8 section 261-2, Hawaii Revised Statutes, in section 4 of this  
9 Act.

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

19 SECTION 10. 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.



1 SECTION 11. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity shall not affect the other provisions or  
4 applications of this Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

7 SECTION 12. All rights, powers, functions, and duties of  
8 the department of transportation's airports division are  
9 transferred to the Hawaii airport corporation on July 1, 2018.  
10 The Hawaii airport corporation shall recognize all bargaining  
11 units and collective bargaining agreements existing at the time  
12 of transfer to the corporation. The employees of the  
13 corporation shall be considered employees of the State as  
14 provided in this section.

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



1 earned, and other rights, benefits, and privileges, in  
2 accordance with state personnel laws and this Act.

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

17 No employee covered by a collective bargaining unit as an  
18 employee of the department of transportation shall be laid off  
19 as a result of the creation of the Hawaii airport corporation.  
20 The officers and all other employees of the Hawaii airport



1 corporation shall be state employees for the purposes of  
2 benefits and retirement.

3 SECTION 13. On July 1, 2018, all appropriations, records,  
4 equipment, machines, files, supplies, contracts, books, papers,  
5 documents, maps, and other personal property heretofore made,  
6 used, acquired, or held by the department of transportation  
7 relating to the functions transferred to the Hawaii airport  
8 corporation shall be transferred with the functions to which  
9 they relate.

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

12 SECTION 15. This Act shall take effect on December 16,  
13 2066; provided that sections 3, 7, and 8 shall take effect on  
14 December 17, 2066.



S.B. NO. 658  
S.D. 2

**Report Title:**

Tourism; Transportation; Aeronautics; 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. Effective 12/16/2066. (SD2)

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