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## A BILL FOR AN ACT

RELATING TO AN AIRPORTS CORPORATION.

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

1           SECTION 1. The legislature finds that the well-being of  
2 the State is substantially dependent on the efficient  
3 administration, development, management, and operation of its  
4 airports and air transportation infrastructure. The legislature  
5 further finds that responsibility for Hawaii's airport planning,  
6 management, marketing, and capital development functions is  
7 currently distributed among a number of agencies, including the  
8 department of transportation's airports division, Hawaii tourism  
9 authority, department of budget and finance, department of human  
10 resources development, board of land and natural resources,  
11 department of health (with respect to environmental concerns),  
12 and office of Hawaiian affairs (with respect to ceded land  
13 issues), among others. Distributed responsibility and  
14 involvement by multiple agencies, which sometimes have  
15 conflicting goals and priorities, results in inefficiency,  
16 delayed decision-making, and reduced effectiveness. The  
17 legislature believes that coordinated planning and development



1 of the State's air transportation system and infrastructure  
2 would be achieved more effectively by establishing a separate  
3 state entity with jurisdiction and responsibility for  
4 aeronautics and the State's airports.

5 The legislature further finds that the establishment of a  
6 separate airports corporation would assist in the achievement of  
7 the following important statewide objectives:

- 8 (1) Maximizing the contribution of Hawaii's airports to  
9 the State's economy;
- 10 (2) Ensuring dedicated expert airport leadership,  
11 management continuity, and year-round decision-making,  
12 consistent with industry best practices;
- 13 (3) Improving administrative efficiency by streamlining  
14 administrative processes;
- 15 (4) Accelerating the planning and implementation of the  
16 state airports' capital improvement programs;
- 17 (5) Increasing the financial flexibility and strength of  
18 the State's airports;
- 19 (6) Increasing economic opportunities for the State, in  
20 collaboration with the Hawaii tourism authority;





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

2           "Aircraft" 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" shall have the same meaning as defined in section  
7 261-1.

8           "Airport revenue" means all moneys paid into the airport  
9 revenue fund pursuant to section 261-5(a).

10          "Airports corporation" or "corporation" means the Hawaii  
11 airports corporation established by this chapter.

12          "Chief executive officer" means the chief executive officer  
13 of the Hawaii airports corporation.

14          **§ -2 Airports corporation; establishment; board;**  
15 **members; chief executive officer.** (a) There is established the  
16 Hawaii airports corporation to:

17           (1) Develop and implement management structures, policies,  
18 and procedures based on airport industry best  
19 practices;

20           (2) Efficiently develop, manage, operate, and maintain the  
21 State's airports and aeronautical facilities; and



1           (3) Administer the provisions of chapters 102, 261, 261D,  
2           and 262 that are applicable to airports and  
3           aeronautical facilities.

4 The corporation shall be a body politic and corporate and an  
5 instrumentality and agency of the State, placed within the  
6 department of transportation for administrative purposes only,  
7 and shall enjoy the same sovereign immunity available to the  
8 State. The corporation shall not be subject to supervision by  
9 the department of transportation or its director. Further,  
10 section 26-35(a)(1), (4), (5), and (6) shall not apply to the  
11 airports corporation.

12           (b) The powers of the airports corporation shall be vested  
13 in and exercised by a board of directors, which shall consist of  
14 nine voting members, who shall be appointed by the governor;  
15 provided that:

16           (1) The board shall include at least one resident of each  
17           county;

18           (2) Notwithstanding section 78-1(b), no more than two  
19           members shall be non-residents of the State; and

20           (3) Two members shall be selected from a list of persons  
21           nominated by the speaker of the house of



1           representatives, and two members shall be selected  
2           from a list of persons nominated by the president of  
3           the senate; provided that each list of nominees shall  
4           contain no less than three names and shall include two  
5           names that qualify to fill any county-specific  
6           vacancy.

7           Senate confirmation of members shall not be required. All  
8           members shall be appointed for terms of four years; provided  
9           that the governor shall stagger the initial terms pursuant to  
10          section 26-34(a).

11          (c) Members shall have relevant business and management  
12          experience, including experience in one or more of the following  
13          disciplines: financial planning, budgeting, hospitality,  
14          tourism, commercial development, construction program  
15          management, marketing, law, aviation, non-aviation airport  
16          business, or the cultural traditions and practices of native  
17          Hawaiians. It is the intent of the legislature that there shall  
18          be, as far as practicable, a wide cross-section of these  
19          disciplines represented by the board.

20          (d) Notwithstanding section 26-34(a) and (b), all members  
21          of the board shall continue in office until their respective



1 successors have been appointed; provided that no member shall  
2 serve more than eight consecutive years.

3 (e) No board member appointed under this section shall be  
4 an officer or employee of the State or a county.

5 (f) Each board member shall serve without pay and shall be  
6 reimbursed for necessary out-of-pocket expenses incurred while  
7 attending meetings and otherwise discharging the member's board  
8 related responsibilities.

9 (g) The airports corporation shall be headed by a single  
10 executive to be known as the chief executive officer of the  
11 Hawaii airports corporation, who shall:

12 (1) Not be a member of the board;

13 (2) Have not previously served as the director of  
14 transportation or as a deputy or assistant in charge  
15 of the airports division of the department of  
16 transportation;

17 (3) Be exempt from chapters 76 and 89; and

18 (4) Receive a salary fixed by the board.

19 (h) The chief executive officer:

20 (1) Shall be selected based on criteria approved by the  
21 board, including experience in airport management at



- 1 an executive level at a large-hub or medium-hub  
2 airport within the United States, management of large-  
3 scale capital programs, and domestic and international  
4 air service development;
- 5 (2) Shall be appointed by an affirmative vote of not less  
6 than five members of the board;
- 7 (3) Shall be employed subject to a formal contract, the  
8 terms of which shall be approved by the board;  
9 provided that the terms shall include provisions for  
10 the removal of the chief executive officer whether  
11 with or without cause;
- 12 (4) May be removed from office only by a vote of not less  
13 than five members of the board; provided that the  
14 basis for removal shall be consistent with the terms  
15 of the chief executive officer's employment contract;
- 16 (5) Shall have the powers as described in this chapter and  
17 the provisions of chapters 102, 261, 261D, and 262  
18 that are applicable to airports and aeronautical  
19 facilities, as may be delegated by the board;
- 20 (6) Except when excused by the board, shall attend all  
21 meetings of the board, keep a record of the



1 proceedings, and maintain and be the custodian of the  
2 official seal of the corporation and all books,  
3 records, documents, and papers filed with the  
4 corporation;

5 (7) Shall direct and supervise the corporation's  
6 administrative and operational affairs in accordance  
7 with the directives of the board;

8 (8) Shall approve all accounts for salaries and allowable  
9 expenses of the corporation; and

10 (9) Shall do all things necessary, as directed by the  
11 board, to carry out the powers and duties conferred  
12 upon the corporation by this chapter and the  
13 provisions of chapters 102, 261, 261D, and 262 that  
14 are applicable to airports and aeronautical  
15 facilities.

16 (i) Upon the vacancy of the position of the chief  
17 executive officer, the board of directors shall designate a  
18 deputy executive officer or other employee of the corporation to  
19 serve as the chief executive officer of the corporation until  
20 the vacancy is filled by the board. The interim chief executive



1 officer shall have all of the powers and responsibilities and  
2 receive the salary of the chief executive officer.

3 (j) The number of members of the board necessary to  
4 constitute a quorum to do business shall be five members, and  
5 unless specified elsewhere in this chapter, the concurrence of  
6 five members of the board shall be necessary to make any action  
7 of the board valid.

8 § -3 Powers; generally. (a) The Hawaii airports  
9 corporation, by and through its board of directors:

10 (1) Shall exercise power and control over all airports,  
11 air navigation facilities, buildings, and other  
12 facilities that the corporation is responsible for  
13 managing, operating, or controlling under this chapter  
14 and the provisions of chapters 102, 261, 261D, and 262  
15 that are applicable to airports and aeronautical  
16 facilities;

17 (2) Shall provide as appropriate for the landing, taking-  
18 off, and servicing of aircraft, and the loading and  
19 unloading of passengers and cargo at all airports  
20 under the control of the corporation;



- 1           (3) Shall establish performance targets and performance  
2           standards for all state airports to achieve the  
3           highest levels of customer service;
- 4           (4) Shall ensure that appropriate mission statements,  
5           business plans, minimum development standards, and  
6           strategic goals are established and that progress  
7           towards their accomplishment is regularly assessed and  
8           reported;
- 9           (5) Shall develop an organization and management structure  
10          to best accomplish the goals of the Hawaii airport  
11          system and the corporation;
- 12          (6) Shall have an official seal and may alter the official  
13          seal at its pleasure;
- 14          (7) May make, execute, or assume contracts, leases, and  
15          all other instruments necessary or convenient for the  
16          exercise of its powers and functions under this  
17          chapter and the provisions of chapters 102, 261, 261D,  
18          and 262 that are applicable to airports and  
19          aeronautical facilities;
- 20          (8) Shall establish bylaws for its organization and  
21          internal management;



- 1           (9) Shall adopt rules pursuant to chapter 91 as necessary  
2           to implement this chapter and the provisions of  
3           chapters 102, 261, 261D, and 262 that are applicable  
4           to airports and aeronautical facilities;
- 5           (10) Shall prepare and adopt the corporation's operating  
6           and capital budgets;
- 7           (11) May own, purchase, lease, exchange, or otherwise  
8           acquire property, whether real, personal, or mixed,  
9           tangible or intangible, and any interest therein, in  
10          the name of the corporation, and may assign, exchange,  
11          transfer, convey, lease, sublease, or encumber the  
12          same or any project, improvement, or facility related  
13          thereto; provided that the lands to which the  
14          corporation holds title shall not be subject to  
15          chapter 171; provided further that any sale, gift, or  
16          exchange of real property shall be subject to the  
17          terms, conditions, and restrictions applicable to the  
18          sale, gift, or exchange of public lands in section  
19          171-50 and 171-64.7; and provided further that any  
20          lease, sublease permit, or other encumbrance for any  
21          real property shall be issued in accordance with



- 1 administrative rules adopted by the corporation  
2 pursuant to chapter 91;
- 3 (12) May procure insurance against any loss in connection  
4 with its property and other assets and operations, in  
5 amounts and from insurers as it deems desirable; or  
6 provide for self-insurance;
- 7 (13) May accept and receive gifts or grants in any form  
8 from any person, public entity, or source; provided  
9 that the grants and gifts shall be used for airports  
10 corporation purposes;
- 11 (14) Shall take all actions necessary under emergencies  
12 declared by the governor;
- 13 (15) Shall assume from the department of transportation:  
14 (A) That:  
15 (i) Certain Certificate of the Director of  
16 Transportation Providing for the Issuance of  
17 State of Hawaii Airports System Revenue  
18 Bonds dated as of May 1, 1969, relating to  
19 certain revenue bonds and other obligations;  
20 (ii) Certain Indenture of Trust dated as of  
21 December 1, 2013, between the department of



1 transportation and U.S. Bank National  
2 Association relating to certain certificates  
3 of participation; and  
4 (iii) Certain Indenture of Trust dated as of  
5 August 1, 2014, between the department of  
6 transportation and MUFG Union Bank, N.A.,  
7 relating to certain customer facility charge  
8 revenue bonds, each as supplemented and  
9 amended to date; and  
10 (B) The bonds, notes, and other obligations of the  
11 department of transportation outstanding under,  
12 as well as the covenants, restrictions, and other  
13 requirements set forth in, those documents;  
14 (16) Shall adopt policies and procedures designed to ensure  
15 continuing compliance with the terms of the documents  
16 in paragraph (15) for so long as they are applicable;  
17 (17) Shall fix, impose, prescribe, and collect rates,  
18 rentals, fees, or charges for the lease, use, and  
19 services of its airport facilities at least sufficient  
20 to pay the costs of operation, maintenance, and  
21 repair, if any, and the required payments of the



1 principal of and interest on all bonds, notes, or  
2 other obligations issued or assumed by the airports  
3 corporation and reserves therefor; provided that the  
4 rates, rentals, fees, or charges are established at an  
5 open meeting subject to the requirements of chapter  
6 92;

7 (18) Subject to the provisions of the documents assumed by  
8 the corporation under paragraph (15) (A), may allot any  
9 and all airport revenue and issue revenue bonds,  
10 refunding revenue bonds, special facility revenue  
11 bonds, bond anticipation notes, and other lawfully  
12 authorized obligations of the State in its name and  
13 secured by the revenue, or user taxes, or any  
14 combination of both, of an undertaking or loan program  
15 pursuant to chapter 39, but not in excess of the  
16 principal amounts as are necessary for its purposes;

17 (19) May invest and secure its moneys;

18 (20) May exercise the power of eminent domain pursuant to  
19 chapter 101 and in accordance with sections 261-31 to  
20 261-36, to acquire real property for the corporation  
21 with which to carry out this chapter and the



1 provisions of chapters 102, 261, 261D, or 262 that are  
2 applicable to airports and aeronautical facilities;

3 (21) Shall establish and maintain an appropriate system of  
4 accounts for the corporation; and

5 (22) May do any and all things necessary to exercise the  
6 powers and perform the duties conferred upon the  
7 corporation by this chapter and the provisions of  
8 chapters 102, 261, 261D, and 262 that are applicable  
9 to airports and aeronautical facilities.

10 (b) The corporation shall not be subject to chapters 36,  
11 37, 38, and 40, except for section 36-28.5 and as otherwise  
12 provided in this chapter and chapter 261.

13 (c) The airports corporation may sue and be sued in its  
14 corporate name. Notwithstanding any other law to the contrary,  
15 all claims arising out of the acts or omissions of the airports  
16 corporation or the members of its board, its officers, or its  
17 employees, including claims permitted against the State under  
18 chapter 661, part I, and claims for torts permitted against the  
19 State under chapter 662, may be brought only pursuant to this  
20 section and only against the airports corporation. However, the  
21 airports corporation shall be subject to suit only in the manner



1 provided by law for suits against the State, including section  
2 661-11. All defenses available to the State, as well as all  
3 limitations on actions against the State, shall be applicable to  
4 the airports corporation.

5 The board of directors, upon the advice of its attorney,  
6 may arbitrate, compromise, or settle any claim, action, or suit  
7 brought against the airports corporation pursuant to this  
8 section. Any claim compromised or settled under this subsection  
9 shall be payable solely from the moneys and property of the  
10 airports corporation and shall not constitute a general  
11 obligation of the State or be secured directly or indirectly by  
12 the full faith and credit of the State or the general credit of  
13 the State or by any revenue or taxes of the State. Nothing in  
14 this subsection shall preclude the board of directors from  
15 requesting legislative appropriations to fund the settlement of  
16 any claim or judgment against the airports corporation or its  
17 officers, employees, or agents.

18 Rights and remedies conferred by this section shall not be  
19 construed to authorize any other claim, suit, or action against  
20 the State. In addition, a judgment, compromise, or settlement  
21 in an action brought against the airports corporation under this



1 section shall constitute a complete bar to any action brought by  
2 the claimant, by reason of the same subject matter, against the  
3 State or an officer or employee of the airports corporation.

4 (d) The corporation shall be a "jurisdiction" and an  
5 "appointing authority" under chapter 76, and an "appointing  
6 authority" and an "appropriate authority" for those of its  
7 officers and employees who are excluded employees under chapter  
8 89C. In addition to its chief executive officer, the  
9 corporation may employ executive officers, including a chief  
10 procurement officer, appointed by the chief executive officer  
11 who are qualified to fill positions established in the bylaws of  
12 the corporation adopted by the board of directors, to perform  
13 functions and exercise powers assigned by the bylaws or  
14 delegated by the board or the chief executive officer. The  
15 other executive officers of the corporation and up to fifteen  
16 additional specially qualified employees appointed by the chief  
17 executive officer shall be exempt from chapters 76 and 89. All  
18 other persons employed by the corporation shall be subject to  
19 chapters 76 and 89, and rules adopted to implement those  
20 provisions, unless expressly exempted from the civil service  
21 under chapter 76 or excluded from collective bargaining under



1 chapter 89. The officers and personnel of the corporation shall  
2 be included in all benefit programs applicable to officers and  
3 employees of the State.

4 (e) The corporation and its corporate existence shall  
5 continue until terminated by law; provided that no termination  
6 shall take effect as long as bonds or other obligations issued  
7 or assumed by the corporation are outstanding, unless adequate  
8 provision has been made for the payment or satisfaction thereof.  
9 Upon termination of the existence of the corporation, all of the  
10 rights and properties of the corporation then remaining shall  
11 pass to and vest in the State in the manner prescribed by law.

## 12 PART II. BUDGET AND FINANCE

13 § -11 Exemptions. The airport revenue fund, passenger  
14 facility charge special fund, and rental motor vehicle customer  
15 facility charge special fund shall be exempt from chapters 36,  
16 37, and 40.

17 § -12 Fiscal provisions. (a) The corporation's board  
18 of directors shall establish guidelines for preparing the  
19 corporation's annual operating and capital budget proposals.  
20 The guidelines shall take into account anticipated receipts,  
21 surpluses, reserves, and funds from any other source, on deposit



1 in or available for deposit into the airport revenue fund, the  
2 passenger facility charge special fund, the rental motor vehicle  
3 customer facility charge special fund, or any other special or  
4 revolving fund that the legislature may establish for the  
5 corporation.

6 (b) The corporation shall submit by of every year  
7 its biennium and supplemental operating and capital budget  
8 proposals to the department of transportation, which shall  
9 transmit those budget proposals to the governor.

10 (c) Along with its budget proposals, the corporation shall  
11 provide an annual report of the income to and the expenditures  
12 from the airport revenue fund, the passenger facility charge  
13 special fund, the rental motor vehicle customer facility charge  
14 special fund, and any other special or revolving fund  
15 administered by the corporation. The corporation shall provide  
16 a copy of its annual report to the legislature at least twenty  
17 days prior to the convening of each regular session.

18 (d) The supporting documents for each budget proposal  
19 shall include the annual report, but need not include any other  
20 information, except when state general funds are requested.



1           (e) Notwithstanding sections 37-71 and 37-72, the governor  
2 shall include in the executive budget proposals, separately for  
3 both the corporation's operating and capital budget proposals,  
4 one lump sum for each means or source of funds in the amounts  
5 specified in the budget proposals transmitted to the governor by  
6 the department of transportation pursuant to subsection (b).

7           (f) The legislature shall appropriate one lump sum for  
8 each means or source of funding for the corporation's operating  
9 budget and for the corporation's capital budget.

10           **§ -13 Budget oversight.** The corporation's operating and  
11 capital budgets shall not be subject to review or approval by  
12 the governor or any agency of the executive branch, except where  
13 state general funds are requested.

14           **§ -14 Accounts; depositories.** (a) Appropriations for  
15 the corporation shall not be subject to any allotment system or  
16 requirements. The director of finance shall notify the  
17 corporation and the comptroller that all of the appropriations  
18 for the corporation for the fiscal year have been allotted and  
19 are available for expenditure as soon as possible, and in no  
20 event more than three business days, after the general or  
21 supplemental appropriations act is effective.



1 (b) Moneys in the airport revenue fund, passenger facility  
2 charge special fund, and rental motor vehicle customer facility  
3 charge special fund may be deposited in depositories other than  
4 the state treasury; provided that the airports corporation  
5 shall:

6 (1) Consult with the director of finance before selecting  
7 a depository for the corporation's funds; and

8 (2) Submit copies of the annual statements from each of  
9 the depositories in which the moneys from the funds  
10 are deposited to the director of finance.

11 **§ -15 Expenditures in excess of appropriations.** If in  
12 any fiscal year, the amount of revenues deposited into the  
13 airport revenue fund exceeds the amount appropriated from that  
14 fund for that year, the board of directors of the corporation  
15 may approve expenditures in excess of the amount appropriated,  
16 up to the amount by which revenues for that fund exceed the  
17 appropriations from that fund for a fiscal year.

18 **§ -16 Issuance of bonds.** On an annual basis, and upon  
19 request of the corporation, the legislature shall authorize one  
20 lump sum for each means or source of funds for each of the  
21 following types of bonds to be issued by the corporation:



1 revenue bonds, refunding revenue bonds, and special facility  
2 revenue bonds.

3       **§ -17 Audits.** The auditor shall conduct management and  
4 financial audits of the corporation for fiscal year 2023 and  
5 every second year thereafter."

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

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

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

19       The department shall develop and promote ridesharing  
20 programs which shall include but not be limited to, carpool and  
21 vanpool programs, and may assist organizations interested in



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

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

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

14 SECTION 4. Section 28-8.3, Hawaii Revised Statutes, is  
15 amended as follows:

16 1. By amending subsection (a) to read:

17 "(a) No department of the State other than the attorney  
18 general may employ or retain any attorney, by contract or  
19 otherwise, for the purpose of representing the State or the  
20 department in any litigation, rendering legal counsel to the  
21 department, or drafting legal documents for the department;



1 provided that the foregoing provision shall not apply to the  
2 employment or retention of attorneys:

3 (1) By the public utilities commission, the labor and  
4 industrial relations appeals board, and the Hawaii  
5 labor relations board;

6 (2) By any court or judicial or legislative office of the  
7 State; provided that if the attorney general is  
8 requested to provide representation to a court or  
9 judicial office by the chief justice or the chief  
10 justice's designee, or to a legislative office by the  
11 speaker of the house of representatives and the  
12 president of the senate jointly, and the attorney  
13 general declines to provide such representation on the  
14 grounds of conflict of interest, the attorney general  
15 shall retain an attorney for the court, judicial, or  
16 legislative office, subject to approval by the court,  
17 judicial, or legislative office;

18 (3) By the legislative reference bureau;

19 (4) By any compilation commission that may be constituted  
20 from time to time;



- 1           (5) By the real estate commission for any action involving
- 2           the real estate recovery fund;
- 3           (6) By the contractors license board for any action
- 4           involving the contractors recovery fund;
- 5           (7) By the office of Hawaiian affairs;
- 6           (8) By the department of commerce and consumer affairs for
- 7           the enforcement of violations of chapters 480 and
- 8           485A;
- 9           (9) As grand jury counsel;
- 10          (10) By the Hawaii health systems corporation, or its
- 11          regional system boards, or any of their facilities;
- 12          (11) By the auditor;
- 13          (12) By the office of ombudsman;
- 14          (13) By the insurance division;
- 15          (14) By the University of Hawaii;
- 16          (15) By the Kahoolawe island reserve commission;
- 17          (16) By the division of consumer advocacy;
- 18          (17) By the office of elections;
- 19          (18) By the campaign spending commission;
- 20          (19) By the Hawaii tourism authority, as provided in
- 21          section 201B-2.5;



1       (20) By the division of financial institutions;  
2       (21) By the office of information practices; [~~or~~]  
3       (22) By the Hawaii airports corporation; or  
4       [~~(22)~~] (23) By a department, if the attorney general, for  
5               reasons deemed by the attorney general to be good and  
6               sufficient, declines to employ or retain an attorney  
7               for a department; provided that the governor waives  
8               the provision of this section."

9       2. By amending subsection (c) to read:

10       "(c) Every attorney employed by any department on a full-  
11 time basis, except an attorney employed by the public utilities  
12 commission, the labor and industrial relations appeals board,  
13 the Hawaii labor relations board, the office of Hawaiian  
14 affairs, the Hawaii health systems corporation or its regional  
15 system boards, the department of commerce and consumer affairs  
16 in prosecution of consumer complaints, insurance division, the  
17 division of consumer advocacy, the University of Hawaii, the  
18 Hawaii tourism authority as provided in section 201B-2.5, the  
19 office of information practices, the Hawaii airports  
20 corporation, or as grand jury counsel, shall be a deputy  
21 attorney general."



1 SECTION 5. Section 41D-2, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) Any provision in this section to the contrary  
4 notwithstanding, the Hawaii airports corporation, the University  
5 of Hawaii (as to casualty insurance risks only), the Research  
6 Corporation of the University of Hawaii (as to casualty  
7 insurance risks only), the public health facilities of the  
8 department of health (with respect to medical malpractice risks  
9 only), and the Hawaii health systems corporation and its  
10 regional system boards shall be exempt from the requirements of  
11 this chapter."

12 SECTION 6. Section 76-11, Hawaii Revised Statutes, is  
13 amended by amending the definition of "jurisdiction" to read as  
14 follows:

15 "Jurisdiction" means the State, the city and county of  
16 Honolulu, the county of Hawaii, the county of Maui, the county  
17 of Kauai, the judiciary, the department of education, the  
18 University of Hawaii, the Hawaii airports corporation, and the  
19 Hawaii health systems corporation."

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



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

- 5           (1) Commissioned and enlisted personnel of the Hawaii  
6                 National Guard as such, and positions in the Hawaii  
7                 National Guard that are required by state or federal  
8                 laws or regulations or orders of the National Guard to  
9                 be filled from those commissioned or enlisted  
10                personnel;
- 11          (2) Positions filled by persons employed by contract where  
12                 the director of human resources development has  
13                 certified that the service is special or unique or is  
14                 essential to the public interest and that, because of  
15                 circumstances surrounding its fulfillment, personnel  
16                 to perform the service cannot be obtained through  
17                 normal civil service recruitment procedures. Any such  
18                 contract may be for any period not exceeding one year;
- 19          (3) Positions that must be filled without delay to comply  
20                 with a court order or decree if the director  
21                 determines that recruitment through normal recruitment



1 civil service procedures would result in delay or  
2 noncompliance, such as the Felix-Cayetano consent  
3 decree;

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

6 (5) Employees in the office of the governor and office of  
7 the lieutenant governor, and household employees at  
8 Washington Place;

9 (6) Positions filled by popular vote;

10 (7) Department heads, officers, and members of any board,  
11 commission, or other state agency whose appointments  
12 are made by the governor or are required by law to be  
13 confirmed by the senate;

14 (8) Judges, referees, receivers, masters, jurors, notaries  
15 public, land court examiners, court commissioners, and  
16 attorneys appointed by a state court for a special  
17 temporary service;

18 (9) One bailiff for the chief justice of the supreme court  
19 who shall have the powers and duties of a court  
20 officer and bailiff under section 606-14; one  
21 secretary or clerk for each justice of the supreme



1 court, each judge of the intermediate appellate court,  
2 and each judge of the circuit court; one secretary for  
3 the judicial council; one deputy administrative  
4 director of the courts; three law clerks for the chief  
5 justice of the supreme court, two law clerks for each  
6 associate justice of the supreme court and each judge  
7 of the intermediate appellate court, one law clerk for  
8 each judge of the circuit court, two additional law  
9 clerks for the civil administrative judge of the  
10 circuit court of the first circuit, two additional law  
11 clerks for the criminal administrative judge of the  
12 circuit court of the first circuit, one additional law  
13 clerk for the senior judge of the family court of the  
14 first circuit, two additional law clerks for the civil  
15 motions judge of the circuit court of the first  
16 circuit, two additional law clerks for the criminal  
17 motions judge of the circuit court of the first  
18 circuit, and two law clerks for the administrative  
19 judge of the district court of the first circuit; and  
20 one private secretary for the administrative director  
21 of the courts, the deputy administrative director of



1 the courts, each department head, each deputy or first  
2 assistant, and each additional deputy, or assistant  
3 deputy, or assistant defined in paragraph (16);

4 (10) First deputy and deputy attorneys general, the  
5 administrative services manager of the department of  
6 the attorney general, one secretary for the  
7 administrative services manager, an administrator and  
8 any support staff for the criminal and juvenile  
9 justice resources coordination functions, and law  
10 clerks;

11 (11) (A) Teachers, principals, vice-principals, complex  
12 area superintendents, deputy and assistant  
13 superintendents, other certificated personnel,  
14 not more than twenty noncertificated  
15 administrative, professional, and technical  
16 personnel not engaged in instructional work;

17 (B) Effective July 1, 2003, teaching assistants,  
18 educational assistants, bilingual/bicultural  
19 school-home assistants, school psychologists,  
20 psychological examiners, speech pathologists,  
21 athletic health care trainers, alternative school



1 work study assistants, alternative school  
2 educational/supportive services specialists,  
3 alternative school project coordinators, and  
4 communications aides in the department of  
5 education;

6 (C) The special assistant to the state librarian and  
7 one secretary for the special assistant to the  
8 state librarian; and

9 (D) Members of the faculty of the University of  
10 Hawaii, including research workers, extension  
11 agents, personnel engaged in instructional work,  
12 and administrative, professional, and technical  
13 personnel of the university;

14 (12) Employees engaged in special, research, or  
15 demonstration projects approved by the governor;

16 (13) (A) Positions filled by inmates, patients of state  
17 institutions, persons with severe physical or  
18 mental disabilities participating in the work  
19 experience training programs;



1 (B) Positions filled with students in accordance with  
2 guidelines for established state employment  
3 programs; and

4 (C) Positions that provide work experience training  
5 or temporary public service employment that are  
6 filled by persons entering the workforce or  
7 persons transitioning into other careers under  
8 programs such as the federal Workforce Investment  
9 Act of 1998, as amended, or the Senior Community  
10 Service Employment Program of the Employment and  
11 Training Administration of the United States  
12 Department of Labor, or under other similar state  
13 programs;

14 (14) A custodian or guide at Iolani Palace, the Royal  
15 Mausoleum, and Hulihee Palace;

16 (15) Positions filled by persons employed on a fee,  
17 contract, or piecework basis, who may lawfully perform  
18 their duties concurrently with their private business  
19 or profession or other private employment and whose  
20 duties require only a portion of their time, if it is



1 impracticable to ascertain or anticipate the portion  
2 of time to be devoted to the service of the State;

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

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



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

5           (B) All of the positions defined by paragraph (9)  
6           shall be included in the position classification  
7           plan;

8       (18) Positions in the state foster grandparent program and  
9       positions for temporary employment of senior citizens  
10      in occupations in which there is a severe personnel  
11      shortage or in special projects;

12     (19) Household employees at the official residence of the  
13     president of the University of Hawaii;

14     (20) Employees in the department of education engaged in  
15     the supervision of students during meal periods in the  
16     distribution, collection, and counting of meal  
17     tickets, and in the cleaning of classrooms after  
18     school hours on a less than half-time basis;

19     (21) Employees hired under the tenant hire program of the  
20     Hawaii public housing authority; provided that not  
21     more than twenty-six per cent of the authority's



- 1 workforce in any housing project maintained or  
2 operated by the authority shall be hired under the  
3 tenant hire program;
- 4 (22) Positions of the federally funded expanded food and  
5 nutrition program of the University of Hawaii that  
6 require the hiring of nutrition program assistants who  
7 live in the areas they serve;
- 8 (23) Positions filled by persons with severe disabilities  
9 who are certified by the state vocational  
10 rehabilitation office that they are able to perform  
11 safely the duties of the positions;
- 12 (24) The sheriff;
- 13 (25) A gender and other fairness coordinator hired by the  
14 judiciary;
- 15 (26) Positions in the Hawaii National Guard youth and adult  
16 education programs;
- 17 (27) In the state energy office in the department of  
18 business, economic development, and tourism, all  
19 energy program managers, energy program specialists,  
20 energy program assistants, and energy analysts; [and]



- 1 (28) Administrative appeals hearing officers in the  
2 department of human services[-]; and
- 3 (29) The chief executive officer of the Hawaii airports  
4 corporation, all other executive officers the chief  
5 executive officer may appoint pursuant to section  
6 -3(d), and fifteen positions that the chief executive  
7 officer is authorized to fill by appointing specially  
8 qualified personnel pursuant to section -3(d).

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

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

13 SECTION 8. Section 89C-1.5, Hawaii Revised Statutes, is  
14 amended by amending the definition of "appropriate authority" to  
15 read as follows:

16 "Appropriate authority" means the governor, the respective  
17 mayors, the chief justice of the supreme court, the board of  
18 education, the board of regents, the state public charter school  
19 commission, the Hawaii health systems corporation board, the  
20 auditor, the ombudsman, the board of directors of the Hawaii  
21 airports corporation, and the director of the legislative



1 reference bureau. These individuals or boards may make  
2 adjustments for their respective excluded employees."

3 SECTION 9. Section 171-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **"§171-2 Definition of public lands.** "Public lands" means  
6 all lands or interest therein in the State classed as government  
7 or crown lands previous to August 15, 1895, or acquired or  
8 reserved by the government upon or subsequent to that date by  
9 purchase, exchange, escheat, or the exercise of the right of  
10 eminent domain, or in any other manner; including lands accreted  
11 after May 20, 2003, and not otherwise awarded, submerged lands,  
12 and lands beneath tidal waters that are suitable for  
13 reclamation, together with reclaimed lands that have been given  
14 the status of public lands under this chapter, except:

- 15 (1) Lands designated in section 203 of the Hawaiian Homes  
16 Commission Act, 1920, as amended;
- 17 (2) Lands set aside pursuant to law for the use of the  
18 United States;
- 19 (3) Lands being used for roads and streets;
- 20 (4) Lands to which the United States relinquished the  
21 absolute fee and ownership under section 91 of the



1 Hawaiian Organic Act prior to the admission of Hawaii  
2 as a state of the United States unless subsequently  
3 placed under the control of the board of land and  
4 natural resources and given the status of public lands  
5 in accordance with the state constitution, the  
6 Hawaiian Homes Commission Act, 1920, as amended, or  
7 other laws;

8 (5) Lands to which the University of Hawaii holds title;

9 (6) Lands to which the Hawaii housing finance and  
10 development corporation in its corporate capacity  
11 holds title;

12 (7) Lands to which the Hawaii community development  
13 authority in its corporate capacity holds title;

14 (8) Lands to which the department of agriculture holds  
15 title by way of foreclosure, voluntary surrender, or  
16 otherwise, to recover moneys loaned or to recover  
17 debts otherwise owed the department under chapter 167;

18 (9) Lands that are set aside by the governor to the Aloha  
19 Tower development corporation; lands leased to the  
20 Aloha Tower development corporation by any department  
21 or agency of the State; or lands to which the Aloha



1 Tower development corporation holds title in its  
2 corporate capacity;

3 (10) Lands that are set aside by the governor to the  
4 agribusiness development corporation; lands leased to  
5 the agribusiness development corporation by any  
6 department or agency of the State; or lands to which  
7 the agribusiness development corporation in its  
8 corporate capacity holds title;

9 (11) Lands to which the Hawaii technology development  
10 corporation in its corporate capacity holds title;  
11 [~~and~~].

12 (12) Lands to which the department of education holds  
13 title; and

14 (13) Lands to which the Hawaii airports corporation holds  
15 title;

16 provided that, except as otherwise limited under federal law and  
17 except for state land used as an airport as defined in section  
18 262-1, public lands shall include the air rights over any  
19 portion of state land upon which a county mass transit project  
20 is developed after July 11, 2005[-]; provided further that lands  
21 to which the Hawaii airports corporation holds title shall be



1 considered "public lands" for the purpose of accounting of all  
2 receipts from lands that are described in section 5(f) of the  
3 Admission Act, Public Law 86-3, for the prior fiscal year,  
4 pursuant to section 5 of Act 178, Session Laws of Hawaii 2006."

5 SECTION 10. Section 261-7, Hawaii Revised Statutes, is  
6 amended by amending subsection (e) to read as follows:

7 " (e) ~~[The department may fix and regulate, from time to~~  
8 ~~time, reasonable landing fees for aircraft, including the~~  
9 ~~imposition of landing surcharges or differential landing fees,~~  
10 ~~and other reasonable charges for the use and enjoyment of the~~  
11 ~~airports and the services and facilities furnished by the~~  
12 ~~department in connection therewith, including the establishment~~  
13 ~~of a statewide system of airports landing fees, a statewide~~  
14 ~~system of airports support charges, and joint use charges for~~  
15 ~~the use of space shared by users, which fees and charges may~~  
16 ~~vary among different classes of users such as foreign carriers,~~  
17 ~~domestic carriers, inter island carriers, air taxi operators,~~  
18 ~~helicopters, and such other classes as may be determined by the~~  
19 ~~director, for the purpose of meeting the expenditures of the~~  
20 ~~statewide system of airports set forth in section 261-5(a),~~  
21 ~~which includes expenditures for capital improvement projects~~



1 ~~approved by the legislature.]~~ The corporation shall fix, impose,  
2 prescribe, and collect rates, rentals, fees, or charges for the  
3 lease, use, and services of its airport facilities in amounts  
4 sufficient to pay the costs of the operation, maintenance, and  
5 repair, if any, and the required payments of the principal of,  
6 and interest on, all bonds issued or assumed by the corporation  
7 and reserves therefor.

8       In setting airports rates and charges, including landing  
9 fees, the [~~director~~] chief executive officer may enter into  
10 contracts, leases, licenses, and other agreements with  
11 aeronautical users of the statewide system of airports  
12 containing such terms, conditions, and provisions as the  
13 [~~director~~] chief executive officer deems advisable.

14       If the [~~director~~] chief executive officer has not entered  
15 into contracts, leases, licenses, and other agreements with any  
16 or fewer than all of the aeronautical users of the statewide  
17 system of airports prior to the expiration of an existing  
18 contract, lease, license, or agreement, the [~~director~~] chief  
19 executive officer shall set and impose rates, rentals, fees, and  
20 charges pursuant to this subsection without regard to the



1 requirements of chapter 91; provided that a public informational  
2 hearing shall be held on the rates, rentals, fees, and charges.

3 The [~~director~~] chief executive officer shall develop rates,  
4 rentals, fees, and charges in accordance with a residual  
5 methodology so that the statewide system of airports shall be,  
6 and always remain, self-sustaining. The rates, rentals, fees,  
7 and charges shall be set at [~~such~~] levels as to produce revenues  
8 [~~which,~~] that, together with aviation fuel taxes, shall be at  
9 least sufficient to meet the expenditures of the statewide  
10 system of airports set forth in section 261-5(a), including  
11 expenditures for capital improvement projects approved by the  
12 legislature, and to comply with covenants and agreements with  
13 holders of airport revenue bonds.

14 The [~~director~~] chief executive officer may develop and  
15 formulate methodology in setting the various rates, rentals,  
16 fees, and charges imposed and may determine usage of space,  
17 estimate landed weights, and apply [~~such~~] the portion of  
18 nonaeronautical revenue deemed appropriate in determining the  
19 rates, rentals, fees, and charges applicable to aeronautical  
20 users of the statewide system of airports.



1           The rates, rentals, fees, and charges determined by the  
2   ~~[director]~~ chief executive officer in the manner set forth in  
3   this subsection shall be those charges payable by the  
4   aeronautical users for the periods immediately following the  
5   date of expiration of the existing contract, lease, license, or  
6   agreement. If fees are established pursuant to this section,  
7   the ~~[department]~~ corporation shall prepare a detailed report on  
8   the circumstances and rates and charges that have been  
9   established, and shall submit the report to the legislature no  
10  later than twenty days prior to the convening of the next  
11  regular session.

12           If a schedule of rates, rentals, fees, and charges  
13  developed by the ~~[director]~~ chief executive officer in  
14  accordance with this section is projected by the ~~[department]~~  
15  corporation to produce revenues ~~[which,]~~ that, together with  
16  aviation fuel taxes, will be in excess of the amount required to  
17  meet the expenditures of the statewide system of airports set  
18  forth in section 261-5(a), including expenditures for capital  
19  improvement projects approved by the legislature, and to comply  
20  with covenants and agreements with holders of airport revenue  
21  bonds, the ~~[department]~~ corporation shall submit the schedule of



1 rates, rentals, fees, and charges to the legislature prior to  
2 the convening of the next regular session of the legislature.  
3 Within forty-five days after the convening of the regular  
4 session, the legislature may disapprove any schedule of rates,  
5 rentals, fees, and charges required to be submitted to it by  
6 this section by concurrent resolution. If no action is taken by  
7 the legislature within the forty-five-day period the schedule of  
8 rates, rentals, fees, and charges shall be deemed approved. If  
9 the legislature disapproves the schedule within the forty-five-  
10 day period, the [~~director~~] chief executive officer shall develop  
11 a new schedule of rates, rentals, fees, and charges in  
12 accordance with this section within seventy-five days of the  
13 disapproval. Pending the development of a new schedule of  
14 rates, rentals, fees, and charges, the schedule submitted to the  
15 legislature shall remain in force and effect.

16 Notwithstanding any other provision of law to the contrary,  
17 the [~~department~~] corporation may waive landing fees and other  
18 aircraft charges established under this section at any airport  
19 owned or controlled by the State whenever:

20 (1) The governor declares a state of emergency; and



1           (2) The [~~department~~] corporation determines that the  
2           waiver of landing fees and other charges for the  
3           aircraft is consistent with assisting in the delivery  
4           of humanitarian relief to disaster-stricken areas of  
5           the State."

6           SECTION 11. On and after the transfer completion date  
7           established by the Hawaii airports corporation in section 13(b)  
8           of this Act, and until the revisor of statutes makes the  
9           amendments to applicable provisions in chapters 102, 261, 261D,  
10          and 262, Hawaii Revised Statutes, described in this section,  
11          every reference to the department of transportation or  
12          "department" or its role in awarding concessions in chapters  
13          102, 261, 261D, and 262, Hawaii Revised Statutes, shall be a  
14          reference to the Hawaii airports corporation, and every  
15          reference to the director of transportation or "director" or the  
16          director's role in awarding concessions in chapters 102, 261,  
17          261D, and 262, Hawaii Revised Statutes, shall be a reference to  
18          the chief executive officer of the Hawaii airports corporation.  
19          After the transfer completion date but no later than when the  
20          subsequent supplements to the Hawaii Revised Statutes are



1 prepared, the revisor of statutes shall make appropriate  
2 changes, including, without limitation:

3 (1) Substituting the phrase "chief executive officer" for  
4 the terms "director" or "director of transportation",  
5 the term "Hawaii airports corporation" for the term  
6 "department of transportation", and the term  
7 "corporation" for the term "department";

8 (2) Deleting the definition of "director" in chapters 261  
9 and 262, Hawaii Revised Statutes; and

10 (3) Deleting the definition of "department" in sections  
11 261-1 and 262-1, Hawaii Revised Statutes.

12 SECTION 12. The Hawaii airports corporation shall succeed  
13 to the jurisdiction, powers, and responsibilities of the  
14 department of transportation over aeronautics and airports,  
15 including all of the functions relating to airports and  
16 aeronautics performed by the department and its airports  
17 division, on the transfer completion date published by the  
18 Hawaii airports corporation pursuant to section 13(b) of this  
19 Act, which date shall be no later than December 31, 2022.

20 On the transfer completion date, the Hawaii airports  
21 corporation shall assume from the department of transportation:



- 1           (1) That:
- 2                   (A) Certain Certificate of the Director of
- 3                           Transportation Providing for the Issuance of
- 4                           State of Hawaii Airports System Revenue Bonds
- 5                           dated as of May 1, 1969, relating to certain
- 6                           revenue bonds and other obligations;
- 7                   (B) Certain Indenture of Trust dated as of
- 8                           December 1, 2013, between the department of
- 9                           transportation and U.S. Bank National Association
- 10                           relating to certain certificates of
- 11                           participation; and
- 12                   (C) Certain Indenture of Trust dated as of August 1,
- 13                           2014, between the department of transportation
- 14                           and MUFG Union Bank, N.A., relating to certain
- 15                           customer facility charge revenue bonds, each as
- 16                           supplemented and amended to date; and
- 17           (2) The bonds, notes, and other obligations of the
- 18                   department of transportation outstanding under, as
- 19                   well as the covenants, restrictions, and other
- 20                   requirements set forth in, those documents.



1           Thereafter, to the extent that the Hawaii airports  
2 corporation is authorized under this Act to exercise powers and  
3 duties that are also granted to other departments, offices, or  
4 boards of the State, with respect to airports and aeronautical  
5 facilities, the Hawaii airports corporation shall exclusively  
6 exercise those powers and perform those duties.

7           SECTION 13. (a) Within ninety days of the effective date  
8 of this Act, the governor shall designate a representative who  
9 shall facilitate the corporation's orderly succession to the  
10 jurisdiction, powers, functions, rights, benefits, obligations,  
11 assets, liabilities, funds, accounts, contracts, and all other  
12 things currently held, used, incurred, or performed by the  
13 department of transportation, its director and staff, and its  
14 airports division, in administering and exercising the authority  
15 and fulfilling the responsibilities authorized or conferred upon  
16 the department of transportation and the director of  
17 transportation, by chapters 102, 261, 261D, and 262, Hawaii  
18 Revised Statutes.

19           Within one hundred eighty days of the effective date of  
20 this Act, the governor shall appoint the members of the board of  
21 directors of the Hawaii airports corporation.



1           To facilitate the corporation's timely assumption of the  
2 department of transportation's authority and responsibilities,  
3 including all of the department's associated bonds, notes, and  
4 obligations as described in paragraph (6) below, the department  
5 of transportation, the department of accounting and general  
6 services, the department of human resources development, the  
7 state procurement office, and any other state department or  
8 agency, if requested by the corporation, shall enter into a  
9 memorandum of understanding with the corporation to:

10           (1) Provide administrative support services for the  
11 corporation pending the transfer of employees from the  
12 department of transportation to the Hawaii airports  
13 corporation pursuant to section 17 of this Act;

14           (2) Assist the corporation with the organization of its  
15 human resources development functions, including  
16 establishing:

17           (A) A human resources office;

18           (B) The corporation's civil service and civil service  
19 positions, and the classification system, merit  
20 appeals board, recruitment system, performance  
21 appraisal system, and the administrative rules,



1 policies, standards, and procedures, including  
2 internal complaint procedures, adopted to support  
3 its civil service; and

4 (C) The corporation's exempt and excluded positions,  
5 and guidelines, procedures, and policies for  
6 filling them, and compensating the officers and  
7 employees who fill them;

8 (3) Assist the corporation in establishing its accounting,  
9 budgeting, fund management, and communication and  
10 electronic information systems, and creating  
11 appropriate interfaces between the corporation's  
12 accounting, budgeting, fund management, communication  
13 and electronic information systems, and those of the  
14 department of transportation, and other state  
15 agencies;

16 (4) Assist the corporation in identifying the plans and  
17 reports that departments and agencies administratively  
18 attached to a department are required to prepare for  
19 the governor, the legislature, or another state  
20 department or agency with respect to aeronautics or  
21 the State's airport system; determining whether those



1 plans and reports have been prepared and will be  
2 transferred to the corporation on the transfer  
3 completion date; and preparing the same for the  
4 corporation, if they do not exist;

5 (5) Expeditiously transfer or otherwise facilitate the  
6 corporation's acquisition or assumption of all of the  
7 powers, functions, rights, benefits, obligations,  
8 assets, funds, accounts, contracts, and all other  
9 things held, used, incurred, or performed by the  
10 department of transportation, its director and staff,  
11 and its airports division, in exercising the authority  
12 and fulfilling and administering the responsibilities  
13 authorized or conferred upon the department of  
14 transportation and the director of transportation by  
15 chapters 102, 261, 261D, and 262, Hawaii Revised  
16 Statutes;

17 (6) Assign and transfer:

18 (A) That certain Certificate of the Director of  
19 Transportation Providing for the Issuance of  
20 State of Hawaii Airports System Revenue Bonds



1           dated as of May 1, 1969, relating to certain  
2           revenue bonds and other obligations;

3           (B) That certain Indenture of Trust dated as of  
4           December 1, 2013, between the department of  
5           transportation and U.S. Bank National Association  
6           relating to certain certificates of  
7           participation; and

8           (C) That certain Indenture of Trust dated as of  
9           August 1, 2014, between the department of  
10          transportation and MUFG Union Bank, N.A.,  
11          relating to certain customer facility charge  
12          revenue bonds, each as supplemented and amended  
13          to date; the assumption of all indebtedness of  
14          the department of transportation heretofore  
15          issued and outstanding thereunder; and the  
16          adoption of policies and procedures designed to  
17          ensure continuing compliance with the terms  
18          thereof for so long as they are applicable; and

19          (7) Reimburse each cooperating department or agency for  
20          the cost of services provided under the memorandum of  
21          understanding.



1           (b) As soon as feasible, the Hawaii airports corporation,  
2 with the concurrence of the director of transportation and the  
3 governor, shall establish the transfer completion date, which  
4 shall be no later than December 31, 2022, and publish notice of  
5 the transfer completion date by:

- 6           (1) Publishing the notice in a daily publication of  
7                 statewide circulation pursuant to section 1-28.5,  
8                 Hawaii Revised Statutes;
- 9           (2) Posting a copy of the notice on an electronic calendar  
10                on a website maintained by the State;
- 11           (3) Providing a copy of the notice to the department of  
12                transportation, the Secretaries of the United States  
13                Department of Transportation and Department of  
14                Defense, the head of the Federal Aviation  
15                Administration, and the head of every other state  
16                department; and
- 17           (4) Posting the notice prominently at every airport and  
18                air navigation facility in the State.

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



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

11           SECTION 15. This Act does not affect rights and duties  
12 that matured, penalties that were incurred, and proceedings that  
13 were begun before its effective date. The department of  
14 transportation shall be responsible for any and all obligations  
15 incurred by the department or its airports division in  
16 connection with the department's exercise of the authority and  
17 performance of the duties and responsibilities conferred upon it  
18 and its director by chapters 261, 261D, and 262, Hawaii Revised  
19 Statutes, until the time that the obligations, including any  
20 accounts payable, accrued paid time off, debt, capital leases,  
21 and other obligations incurred before the transfer completion



1 date, have been assumed by the Hawaii airports corporation,  
2 which shall not occur prior to the transfer completion date.  
3 All collective bargaining disputes or claims against the  
4 department grounded in an act or omission, or an event that  
5 occurred prior to the transfer completion date shall remain the  
6 responsibility of the department of transportation. All  
7 liabilities arising out of the Hawaii airports corporation's  
8 exercise of the authority and performance of the duties and  
9 responsibilities conferred upon it and its chief executive  
10 officer by chapters 102, 261, 261D, and 262, Hawaii Revised  
11 Statutes, after the transfer completion date shall be the  
12 responsibility of the corporation. The assumption by the  
13 airports corporation of the bonds, notes, or other obligations  
14 of the department of transportation relating to the State's  
15 airports system shall be subject to the terms and provisions of  
16 any certificate, indenture, or resolution securing those bonds,  
17 notes, or other obligations. On the transfer completion date,  
18 the Hawaii airports corporation shall assume responsibility for  
19 all rights, duties, penalties, and proceedings of the department  
20 of transportation related to the State's airports system.



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



1 alter the basis on which the revenues or user taxes securing any  
2 bonds, notes, or other obligations issued or assumed by the  
3 airports corporation are to be received by the airports  
4 corporation, or the rights of the airports corporation to the  
5 use of the funds, so as to impair the terms of any contract  
6 securing the same. The airports corporation is authorized to  
7 include these pledges and agreements of the State in any  
8 contract with the holders of bonds, notes, or other obligations  
9 issued pursuant to chapter 37D or 39, Hawaii Revised Statutes.

10 SECTION 17. The Hawaii airports corporation shall  
11 recognize all bargaining units and collective bargaining  
12 agreements existing at the time of transfer to the corporation.  
13 All employees who are subject to chapter 76, Hawaii Revised  
14 Statutes, and occupy civil service positions and whose functions  
15 are transferred to the Hawaii airports corporation by this Act  
16 shall retain their civil service status, whether permanent or  
17 temporary. The employees shall be transferred to the  
18 corporation without loss of salary, seniority (except as  
19 prescribed by applicable collective bargaining agreements),  
20 retention points, prior service credits, any vacation and sick  
21 leave credits previously earned, and other rights, benefits, and



1 privileges, in accordance with state personnel laws and this  
2 Act; provided that the employees meet applicable requirements  
3 for the class or position to which transferred or appointed, as  
4 applicable.

5 Any employee who, prior to this Act, is a member of a  
6 bargaining unit shall remain a member of that bargaining unit  
7 when future collective bargaining agreements are negotiated.

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

19 No employee included in a collective bargaining unit as an  
20 employee of the department of transportation shall be laid off  
21 as a consequence of this Act.



1           SECTION 18. On or no more than ninety days after the  
2 transfer completion date, all appropriations, records,  
3 equipment, machines, files, supplies, contracts, books, papers,  
4 documents, maps, and other personal property heretofore made,  
5 used, acquired, or held by the department of transportation  
6 relating to the functions transferred to the Hawaii airports  
7 corporation shall be transferred with the functions to which  
8 they relate.

9           SECTION 19. All rules, policies, procedures, guidelines,  
10 and other material adopted or developed by the department of  
11 transportation to implement provisions of the Hawaii Revised  
12 Statutes that are reenacted or made applicable to the Hawaii  
13 airports corporation by this Act shall remain in full force and  
14 effect on and after the transfer completion date established  
15 pursuant to section 13(b) of this Act, until amended or repealed  
16 by the Hawaii airports corporation pursuant to chapter 91,  
17 Hawaii Revised Statutes. In the interim, every reference to the  
18 department of transportation or director of transportation in  
19 those rules, policies, procedures, guidelines, and other  
20 material is amended to refer to the Hawaii airports corporation  
21 or chief executive officer of the corporation, as appropriate.



1           SECTION 20. All deeds, executive orders, leases,  
2 contracts, loans, agreements, permits, or other documents  
3 executed or entered into by or on behalf of the department of  
4 transportation, pursuant to the provisions of the Hawaii Revised  
5 Statutes, that are reenacted or made applicable to the Hawaii  
6 airports corporation by this Act shall remain in full force and  
7 effect. On the transfer completion date established pursuant to  
8 section 13(b) of this Act, every reference to the department of  
9 transportation in those deeds, executive orders, leases,  
10 contracts, loans, agreements, permits or other documents shall  
11 be construed as a reference to the Hawaii airports corporation  
12 or the board of directors of the corporation.

13           SECTION 21. There is appropriated out of the airport  
14 revenue fund the sum of \$500,000 or so much thereof as may be  
15 necessary for fiscal year 2019-2020, and \$2,500,000 or so much  
16 thereof as may be necessary for fiscal year 2020-2021 to effect  
17 the transfer of functions from the department of transportation  
18 to the Hawaii airports corporation required by this Act.

19           The sums appropriated shall be expended by the Hawaii  
20 airports corporation to implement the provisions of this Act.



1           SECTION 22. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the 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 23. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9           SECTION 24. This Act shall take effect on July 1, 2019;  
10 provided that section 10 shall take effect upon the satisfaction  
11 and discharge of:

12           (1) That certain Certificate of the Director of  
13                Transportation Providing for the Issuance of the State  
14                of Hawaii Airports System Revenue Bonds dated as of  
15                May 1, 1969;

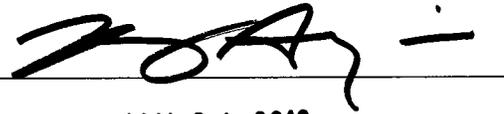
16           (2) That certain Indenture of Trust dated as of  
17                December 1, 2013, between the department of  
18                transportation and U.S. Bank National Association; and



1           (3) All obligations issued and outstanding under the  
2           Certificate and Indenture.

3

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "JOA" followed by a horizontal line and a dash.

JAN 24 2019



# H.B. NO. 1377

**Report Title:**

Tourism; Transportation; Aeronautics; Hawaii Airports Corporation; Establishment; DOT; Appropriation

**Description:**

Authorizes establishment of the Hawaii Airports Corporation within the Department of Transportation for administrative purposes. Sets out appointment of members to the board of directors and powers and duties of the Hawaii Airports Corporation. Transfers aeronautics functions of the Department of Transportation to the Hawaii Airports Corporation by the established transfer completion date agreed upon by the Hawaii Airports Corporation, the Director of Transportation, and the Governor, which shall be no later than 12/31/2022. Appropriates funds.

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

