

JAN 23 2020

A BILL FOR AN ACT

RELATING TO THE HAWAII COMMERCIAL HARBORS AUTHORITY.

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 commercial harbors and commercial maritime infrastructure. The
5 legislature also finds that responsibility for Hawaii's
6 commercial harbor planning, management, marketing, and capital
7 development functions is currently distributed among a number of
8 agencies, including the department of transportation's harbors
9 division, Hawaii tourism authority, department of budget and
10 finance, department of human resources development, board of
11 land and natural resources, and department of health (with
12 respect to environmental concerns), among others. Distributed
13 responsibility and involvement by multiple agencies, which
14 sometimes have conflicting goals and priorities, results in
15 inefficiency, delayed decision-making, and reduced
16 effectiveness. The legislature believes that coordinated
17 planning and development of the State's commercial harbors



1 system and infrastructure would be achieved more efficiently by
2 establishing and assigning a separate state entity overall
3 jurisdiction and responsibility for maritime operations and the
4 State's commercial harbors.

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

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



- 1 (6) Increasing economic opportunities for the State, in
- 2 collaboration with the Hawaii tourism authority;
- 3 (7) Increasing responsiveness to consumer needs,
- 4 commercial opportunities, and economic demands; and
- 5 (8) Maximizing job creation within the State.

6 In addition, the management and administration of scarce and
 7 valuable commercial harbor resources is most effectively served
 8 by a separate commercial harbors authority.

9 The purpose of this Act is to establish the Hawaii
 10 commercial harbors authority, which shall assume all of the
 11 authority, powers, functions, duties, and responsibilities of
 12 the department of transportation related to commercial maritime
 13 and harbors, including responsibility for the development,
 14 management, operation, and maintenance of the State's commercial
 15 harbors, on and after the transfer completion date established
 16 by the Hawaii commercial harbors authority pursuant to section
 17 14(b) of this Act.

18 SECTION 2. The Hawaii Revised Statutes is amended by
 19 adding a new chapter to title 15 to be appropriately designated
 20 and to read as follows:



1 "CHAPTER

2 HAWAII COMMERCIAL HARBORS AUTHORITY

3 PART I. GENERAL PROVISIONS

4 § -1 **Definitions.** As used in this chapter:

5 "Board" means the board of directors of the Hawaii
6 commercial harbors authority.

7 "Chief executive officer" means the chief executive officer
8 of the Hawaii commercial harbors authority.

9 "Commercial harbor" shall have the same meaning as defined
10 in section 266-1.

11 "Commercial harbors authority" or "authority" means the
12 Hawaii commercial harbors authority established by this chapter.

13 "Harbor revenue" means all moneys paid into the harbor
14 special fund pursuant to section 266-19.

15 "Maritime facilities" means commercial harbor and
16 waterfront improvements, ports, docks, wharves, piers, quays,
17 bulkheads, and landings belonging to the State.

18 § -2 **Harbors authority; establishment; board; members;**
19 **chief executive officer.** (a) There is established the Hawaii
20 commercial harbors authority to:



- 1 (1) Develop and implement management structures, policies,
2 and procedures based on commercial harbors industry
3 best practices;
- 4 (2) Efficiently develop, manage, operate, and maintain the
5 State's commercial harbors and maritime facilities;
6 and
- 7 (3) Administer the provisions of chapters 102, 266, and
8 268 that are applicable to commercial harbors and
9 maritime facilities.

10 The authority shall be a body politic and corporate and an
11 instrumentality and agency of the State, placed within the
12 department of transportation for administrative purposes only,
13 and shall enjoy the same sovereign immunity available to the
14 State. The authority shall not be subject to supervision by the
15 department of transportation or its director. Further, section
16 26-35(a)(1), (4), (5), and (6) shall not apply to the authority.

17 (b) The powers of the authority shall be vested in and
18 exercised by a board of directors, which shall consist of five
19 voting members, who shall be subject to section 78-1, as
20 follows:



1 (1) One member who shall be appointed by the governor,
2 with the advice and consent of the senate;

3 (2) One member who shall be appointed by the president of
4 the senate;

5 (3) One member who shall be appointed by the speaker of
6 the house of representatives;

7 (4) One member who shall be a member of a Hawaii union who
8 shall be appointed by the governor with the advice and
9 consent of the senate; and

10 (5) The executive director of the Hawaii harbor users
11 group or its successor organization.

12 All members shall be appointed for terms of four years; provided
13 that the governor shall stagger the initial terms pursuant to
14 section 26-34(a).

15 (c) Members shall have relevant business and management
16 experience, including experience in one or more of the following
17 disciplines:

18 (1) Commercial maritime operations;

19 (2) Maritime law;

20 (3) Non-maritime harbor business;

21 (4) Commercial development;



- 1 (5) Construction management;
- 2 (6) Financial planning;
- 3 (7) Budgeting;
- 4 (8) Hospitality;
- 5 (9) Tourism;
- 6 (10) Marketing; and
- 7 (11) Cultural traditions and practices of native Hawaiians.

8 It is the intent of the legislature that there shall be, as
9 far as practicable, a wide cross-section of these disciplines
10 represented by the board.

11 (d) Pursuant to section 26-34(a) and (b), all members of
12 the board shall continue in office until their respective
13 successors have been appointed; provided that no member shall
14 serve more than eight consecutive years.

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

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



1 (g) The authority shall be headed by a single executive to
2 be known as the chief executive officer of the Hawaii commercial
3 harbors authority, who shall:

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

5 (2) Be exempt from chapters 76 and 89; and

6 (3) Receive a salary fixed by the board.

7 (h) The chief executive officer:

8 (1) Shall be selected based on criteria approved by the
9 board, including experience in commercial harbor
10 management at an executive level at a large-size or
11 medium-size commercial harbor within the United
12 States, management of large-scale capital programs,
13 and domestic and international harbor and maritime
14 development;

15 (2) Shall be appointed by an affirmative vote of not less
16 than three members of the board;

17 (3) Shall be employed subject to a formal contract, the
18 terms of which shall be approved by the board;
19 provided that the terms shall include provisions for
20 the removal of the chief executive officer whether
21 with or without cause;



- 1 (4) May be removed from office only by a vote of not less
2 than three members of the board; provided that the
3 basis for removal shall be consistent with the terms
4 of the chief executive officer's employment contract;
- 5 (5) Shall have the powers as described in this chapter and
6 the provisions of chapters 102, 266, and 268 that are
7 applicable to commercial harbors and maritime
8 facilities, as may be delegated by the board;
- 9 (6) Except when excused by the board, shall attend all
10 meetings of the board, keep a record of the
11 proceedings, and maintain and be the custodian of the
12 official seal of the authority and all books, records,
13 documents, and papers filed with the authority;
- 14 (7) Shall direct and supervise the authority's
15 administrative and operational affairs in accordance
16 with the directives of the board;
- 17 (8) Shall approve all accounts for salaries and allowable
18 expenses of the authority;
- 19 (9) Shall serve as chief procurement officer of the
20 authority; and



1 (10) Shall do all things necessary, as directed by the
2 board, to carry out the powers and duties conferred
3 upon the authority by this chapter and the provisions
4 of chapters 102, 266, and 268 that are applicable to
5 commercial harbors and maritime facilities.

6 (i) Upon the vacancy of the position of the chief
7 executive officer, the board of directors shall designate a
8 deputy executive officer or other employee of the authority to
9 serve as the chief executive officer of the authority until the
10 vacancy is filled by the board. The interim chief executive
11 officer shall have all the powers and responsibilities and
12 receive the salary of the chief executive officer.

13 **§ -3 Powers; generally.** (a) The Hawaii commercial
14 harbors authority, by and through its board of directors:

15 (1) Shall exercise power and control over all commercial
16 harbors and maritime facilities that the authority is
17 responsible for managing, operating, or controlling
18 under this chapter and the provisions of chapters 102,
19 266, and 268 that are applicable to commercial harbors
20 and maritime facilities;



- 1 (2) Shall provide, as appropriate, for the arrival,
2 departure, mooring, and servicing of vessels and the
3 loading and unloading of passengers and cargo at all
4 commercial harbors and maritime facilities under the
5 control of the authority;
- 6 (3) Shall establish performance targets and performance
7 standards for all state commercial harbors and marine
8 facilities to achieve the highest levels of customer
9 service;
- 10 (4) Shall ensure that appropriate mission statements,
11 business plans, minimum development standards, and
12 strategic goals are established and that progress
13 towards their accomplishment is regularly assessed and
14 reported;
- 15 (5) Shall develop an organization and management structure
16 to best accomplish the goals of the Hawaii commercial
17 harbors system and the authority;
- 18 (6) Shall have an official seal and may alter the official
19 seal at its pleasure;
- 20 (7) May make, execute, or assume contracts, leases, and
21 all other instruments necessary or convenient for the



1 exercise of its powers and functions under this
2 chapter and the provisions of chapters 102, 266, and
3 268 that are applicable to commercial harbors and
4 maritime facilities;

5 (8) Shall establish bylaws for its organization and
6 internal management;

7 (9) Shall adopt rules pursuant to chapter 91 as necessary
8 to implement this chapter and the provisions of
9 chapters 102, 266, and 268 that are applicable to
10 commercial harbors and maritime facilities;

11 (10) Shall prepare and adopt the authority's operating and
12 capital budgets;

13 (11) May own, purchase, lease, exchange, or otherwise
14 acquire property, whether real, personal, or mixed,
15 tangible or intangible, and any interest therein, in
16 the name of the authority, and may assign, exchange,
17 transfer, convey, lease, sublease, or encumber the
18 same or any project, improvement, or facility related
19 thereto; provided that the lands to which the
20 authority holds title shall not be subject to chapter
21 171; provided further that any sale, gift, or exchange



1 of real property shall be subject to the terms,
2 conditions, and restrictions applicable to the sale,
3 gift, or exchange of public lands in sections 171-50
4 and 171-64.7; and provided further that any lease,
5 sublease permit, or other encumbrance for any real
6 property shall be issued in accordance with
7 administrative rules adopted by the authority pursuant
8 to chapter 91;

9 (12) May procure insurance against any loss in connection
10 with its property and other assets and operations, in
11 amounts and from insurers as it deems desirable, or
12 provide for self-insurance;

13 (13) May accept and receive gifts or grants in any form
14 from any person, public entity, or source; provided
15 that the grants and gifts shall be used for harbors
16 authority purposes;

17 (14) Shall take all actions necessary under emergencies
18 declared by the governor;

19 (15) Shall fix, impose, prescribe, and collect rates,
20 rentals, fees, or charges for the lease, use, and
21 services of its maritime facilities at least



1 sufficient to pay the costs of operation, maintenance,
2 and repair, if any, and the required payments of the
3 principal of and interest on all bonds, notes, or
4 other obligations issued or assumed by the authority
5 and reserves therefor; provided that the rates,
6 rentals, fees, or charges are established at an open
7 meeting subject to the requirements of chapter 92;

8 (16) May allot any and all commercial harbor and maritime
9 facilities revenue and issue revenue bonds, refunding
10 revenue bonds, special facility revenue bonds, bond
11 anticipation notes, and other lawfully authorized
12 obligations of the State in its name and secured by
13 the revenue, or user taxes, or any combination of
14 both, of an undertaking or loan program pursuant to
15 chapter 39, but not in excess of the principal amounts
16 as are necessary for its purposes; provided that the
17 board of directors may issue revenue bonds, bond
18 anticipation notes, and any other lawfully authorized
19 obligations of the State in its name without regard to
20 section 39-5(a), (b), and (c);

21 (17) May invest and secure its moneys;



1 (18) Shall establish and maintain an appropriate system of
2 accounts for the authority; and

3 (19) May do any and all things necessary to exercise the
4 powers and perform the duties conferred upon the
5 authority by this chapter and the provisions of
6 chapters 102, 266, and 268 that are applicable to
7 commercial harbors and maritime facilities.

8 (b) The authority shall not be subject to chapters 36, 37,
9 38, and 40, except for section 36-29 and as otherwise provided
10 in this chapter and chapters 266 and 268.

11 (c) The authority may sue and be sued in its corporate
12 name. Notwithstanding any other law to the contrary, all claims
13 arising out of the acts or omissions of the authority or the
14 members of its board, its officers, or its employees, including
15 claims permitted against the State under chapter 661, part I,
16 and claims for torts permitted against the State under chapter
17 662, may be brought only pursuant to this section and only
18 against the authority. However, the authority shall be subject
19 to suit only in the manner provided by law for suits against the
20 State, including section 661-11. All defenses available to the



1 State, as well as all limitations on actions against the State,
2 shall be applicable to the authority.

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

15 Rights and remedies conferred by this section shall not be
16 construed to authorize any other claim, suit, or action against
17 the State. In addition, a judgment, compromise, or settlement
18 in an action brought against the authority under this section
19 shall constitute a complete bar to any action brought by the
20 claimant, by reason of the same subject matter, against the
21 State or an officer or employee of the authority.



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



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

9 (f) The authority shall be subject to chapter 103D;
10 provided that the chief executive officer shall serve as chief
11 procurement officer pursuant to sections -2(h)(9) and
12 103D-203.

13 PART II. BUDGET AND FINANCE

14 **§ -4 Exemptions.** The harbor special fund shall be
15 exempt from chapters 36, 37, and 40.

16 **§ -5 Fiscal provisions.** (a) The authority's board of
17 directors shall establish guidelines for preparing the
18 authority's annual operating and capital budget proposals. The
19 guidelines shall take into account anticipated receipts,
20 surpluses, reserves, and funds from any other source on deposit
21 in or available for deposit into the harbor special fund or any



1 other special or revolving fund that the legislature may
2 establish for the authority.

3 (b) The authority shall submit by of every year
4 its biennium and supplemental operating and capital budget
5 proposals to the department of transportation, which shall
6 transmit those budget proposals to the governor.

7 (c) Along with its budget proposals, the authority shall
8 provide an annual report of the income to and the expenditures
9 from the harbor special fund and any other special or revolving
10 fund administered by the authority. The authority shall provide
11 a copy of its annual report to the legislature at least twenty
12 days prior to the convening of each regular session.

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

16 (e) Notwithstanding sections 37-71 and 37-72, the governor
17 shall include in the executive budget proposals separately for
18 both the authority's operating and capital budget proposals, one
19 lump sum for each means or source of funds in the amounts
20 specified in the budget proposals transmitted to the governor by
21 the department of transportation pursuant to subsection (b).



1 (f) The legislature shall appropriate one lump sum for
2 each means or source of funding for the authority's operating
3 budget and for the authority's capital budget.

4 § -6 **Budget independence.** The authority shall have
5 independence over its operating and capital budgets, except
6 where state general funds are requested.

7 § -7 **Accounts; depositories.** (a) Appropriations for
8 the authority shall not be subject to any allotment system or
9 requirements. The director of finance shall notify the
10 authority and the comptroller that all of the appropriations for
11 the authority for the fiscal year have been allotted and are
12 available for expenditure as soon as possible, and in no event
13 more than three business days after the general or supplemental
14 appropriations act is effective.

15 (b) Moneys in the harbor special fund may be deposited in
16 depositories other than the state treasury; provided that the
17 authority consults with the director of finance before selecting
18 a depository for the authority's funds and submits copies of
19 annual statements from each of the depositories in which the
20 moneys from the funds are deposited.



1 **§ -8 Expenditures in excess of appropriations.** If in
2 any fiscal year, the amount of revenues deposited into the
3 harbor special fund exceeds the amount appropriated from that
4 fund for that year, the board of directors of the authority may
5 approve expenditures in excess of the amount appropriated, up to
6 the amount by which revenues for that fund exceed the
7 appropriations from that fund for a fiscal year.

8 **§ -9 Issuance of bonds.** On an annual basis, and upon
9 request of the authority, the legislature shall authorize one
10 lump sum for each means or source of funds for each of the
11 following types of bonds to be issued by the authority: revenue
12 bonds, refunding revenue bonds, and special facility revenue
13 bonds.

14 **§ -10 Audits.** The auditor shall conduct management and
15 financial audits of the authority for fiscal year 2024 and every
16 second year thereafter."

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

19 "**§26-19 Department of transportation.** The department of
20 transportation shall be headed by a single executive to be known
21 as the director of transportation. The department shall



1 establish, maintain, and operate transportation facilities of
2 the State, including highways, airports, [~~harbors,~~] and such
3 other transportation facilities and activities, other than
4 commercial harbors and commercial maritime activities, as may be
5 authorized by law.

6 The department shall plan, develop, promote, and coordinate
7 various transportation systems management programs that shall
8 include, but not be limited to, alternate work and school hours
9 programs, bicycling programs, and ridesharing programs.

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

18 The functions and authority heretofore exercised by the
19 department of public works with respect to highways are
20 transferred to the department of transportation established by
21 this chapter.



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

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

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

8 "(a) No department of the State other than the attorney
9 general may employ or retain any attorney, by contract or
10 otherwise, for the purpose of representing the State or the
11 department in any litigation, rendering legal counsel to the
12 department, or drafting legal documents for the department;
13 provided that the foregoing provision shall not apply to the
14 employment or retention of attorneys:

15 (1) By the public utilities commission, the labor and
16 industrial relations appeals board, and the Hawaii
17 labor relations board;

18 (2) By any court or judicial or legislative office of the
19 State; provided that if the attorney general is
20 requested to provide representation to a court or
21 judicial office by the chief justice or the chief



1 justice's designee, or to a legislative office by the
2 speaker of the house of representatives and the
3 president of the senate jointly, and the attorney
4 general declines to provide such representation on the
5 grounds of conflict of interest, the attorney general
6 shall retain an attorney for the court, judicial, or
7 legislative office, subject to approval by the court,
8 judicial, or legislative office;

9 (3) By the legislative reference bureau;

10 (4) By any compilation commission that may be constituted
11 from time to time;

12 (5) By the real estate commission for any action involving
13 the real estate recovery fund;

14 (6) By the contractors license board for any action
15 involving the contractors recovery fund;

16 (7) By the office of Hawaiian affairs;

17 (8) By the department of commerce and consumer affairs for
18 the enforcement of violations of chapters 480 and
19 485A;

20 (9) As grand jury counsel;



- 1 (10) By the Hawaii health systems corporation, or its
2 regional system boards, or any of their facilities;
- 3 (11) By the auditor;
- 4 (12) By the office of ombudsman;
- 5 (13) By the insurance division;
- 6 (14) By the University of Hawaii;
- 7 (15) By the Kahoolawe island reserve commission;
- 8 (16) By the division of consumer advocacy;
- 9 (17) By the office of elections;
- 10 (18) By the campaign spending commission;
- 11 (19) By the Hawaii tourism authority, as provided in
12 section 201B-2.5;
- 13 (20) By the division of financial institutions;
- 14 (21) By the office of information practices; [~~or~~]
- 15 (22) By the Hawaii commercial harbors authority; or
- 16 [~~(22)~~] (23) By a department, if the attorney general, for
17 reasons deemed by the attorney general to be good and
18 sufficient, declines to employ or retain an attorney
19 for a department; provided that the governor waives
20 the provision of this section."
- 21 2. By amending subsection (c) to read:



1 "(c) Every attorney employed by any department on a full-
2 time basis, except an attorney employed by the public utilities
3 commission, the labor and industrial relations appeals board,
4 the Hawaii labor relations board, the office of Hawaiian
5 affairs, the Hawaii health systems corporation or its regional
6 system boards, the department of commerce and consumer affairs
7 in prosecution of consumer complaints, insurance division, the
8 division of consumer advocacy, the University of Hawaii, the
9 Hawaii tourism authority as provided in section 201B-2.5, the
10 office of information practices, the Hawaii commercial harbors
11 authority, or as grand jury counsel, shall be a deputy attorney
12 general."

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

15 "(b) Any provision in this section to the contrary
16 notwithstanding, the Hawaii commercial harbors authority, the
17 University of Hawaii (as to casualty insurance risks only), the
18 Research Corporation of the University of Hawaii (as to casualty
19 insurance risks only), the public health facilities of the
20 department of health (with respect to medical malpractice risks
21 only), and the Hawaii health systems corporation and its



1 regional system boards shall be exempt from the requirements of
2 this chapter."

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

6 "Jurisdiction" means the State, the city and county of
7 Honolulu, the county of Hawaii, the county of Maui, the county
8 of Kauai, the judiciary, the department of education, the
9 University of Hawaii, the Hawaii commercial harbors authority,
10 and the Hawaii health systems corporation."

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

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

17 (1) Commissioned and enlisted personnel of the Hawaii
18 National Guard as such, and positions in the Hawaii
19 National Guard that are required by state or federal
20 laws or regulations or orders of the National Guard to



- 1 be filled from those commissioned or enlisted
2 personnel;
- 3 (2) Positions filled by persons employed by contract where
4 the director of human resources development has
5 certified that the service is special or unique or is
6 essential to the public interest and that, because of
7 circumstances surrounding its fulfillment, personnel
8 to perform the service cannot be obtained through
9 normal civil service recruitment procedures. Any such
10 contract may be for any period not exceeding one year;
- 11 (3) Positions that must be filled without delay to comply
12 with a court order or decree if the director
13 determines that recruitment through normal recruitment
14 civil service procedures would result in delay or
15 noncompliance, such as the Felix-Cayetano consent
16 decree;
- 17 (4) Positions filled by the legislature or by either house
18 or any committee thereof;
- 19 (5) Employees in the office of the governor and office of
20 the lieutenant governor, and household employees at
21 Washington Place;



- 1 (6) Positions filled by popular vote;
- 2 (7) Department heads, officers, and members of any board,
3 commission, or other state agency whose appointments
4 are made by the governor or are required by law to be
5 confirmed by the senate;
- 6 (8) Judges, referees, receivers, masters, jurors, notaries
7 public, land court examiners, court commissioners, and
8 attorneys appointed by a state court for a special
9 temporary service;
- 10 (9) One bailiff for the chief justice of the supreme court
11 who shall have the powers and duties of a court
12 officer and bailiff under section 606-14; one
13 secretary or clerk for each justice of the supreme
14 court, each judge of the intermediate appellate court,
15 and each judge of the circuit court; one secretary for
16 the judicial council; one deputy administrative
17 director of the courts; three law clerks for the chief
18 justice of the supreme court, two law clerks for each
19 associate justice of the supreme court and each judge
20 of the intermediate appellate court, one law clerk for
21 each judge of the circuit court, two additional law



1 clerks for the civil administrative judge of the
2 circuit court of the first circuit, two additional law
3 clerks for the criminal administrative judge of the
4 circuit court of the first circuit, one additional law
5 clerk for the senior judge of the family court of the
6 first circuit, two additional law clerks for the civil
7 motions judge of the circuit court of the first
8 circuit, two additional law clerks for the criminal
9 motions judge of the circuit court of the first
10 circuit, and two law clerks for the administrative
11 judge of the district court of the first circuit; and
12 one private secretary for the administrative director
13 of the courts, the deputy administrative director of
14 the courts, each department head, each deputy or first
15 assistant, and each additional deputy, or assistant
16 deputy, or assistant defined in paragraph (16);
17 (10) First deputy and deputy attorneys general, the
18 administrative services manager of the department of
19 the attorney general, one secretary for the
20 administrative services manager, an administrator and
21 any support staff for the criminal and juvenile



1 justice resources coordination functions, and law
2 clerks;

- 3 (11) (A) Teachers, principals, vice-principals, complex
4 area superintendents, deputy and assistant
5 superintendents, other certificated personnel,
6 not more than twenty noncertificated
7 administrative, professional, and technical
8 personnel not engaged in instructional work;
- 9 (B) Effective July 1, 2003, teaching assistants,
10 educational assistants, bilingual/bicultural
11 school-home assistants, school psychologists,
12 psychological examiners, speech pathologists,
13 athletic health care trainers, alternative school
14 work study assistants, alternative school
15 educational/supportive services specialists,
16 alternative school project coordinators, and
17 communications aides in the department of
18 education;
- 19 (C) The special assistant to the state librarian and
20 one secretary for the special assistant to the
21 state librarian; and



1 (D) Members of the faculty of the University of
2 Hawaii, including research workers, extension
3 agents, personnel engaged in instructional work,
4 and administrative, professional, and technical
5 personnel of the university;

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

8 (13) (A) Positions filled by inmates, patients of state
9 institutions, persons with severe physical or
10 mental disabilities participating in the work
11 experience training programs;

12 (B) Positions filled with students in accordance with
13 guidelines for established state employment
14 programs; and

15 (C) Positions that provide work experience training
16 or temporary public service employment that are
17 filled by persons entering the workforce or
18 persons transitioning into other careers under
19 programs such as the federal Workforce Investment
20 Act of 1998, as amended, or the Senior Community
21 Service Employment Program of the Employment and



1 Training Administration of the United States
 2 Department of Labor, or under other similar state
 3 programs;

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

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

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

1 the department of health, each in charge of one of the
2 following: behavioral health, environmental health,
3 hospitals, and health resources administration,
4 including other functions within the department as may
5 be assigned by the director of health, with the
6 approval of the governor; an administrative assistant
7 to the state librarian; and an administrative
8 assistant to the superintendent of education;

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

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

15 (B) All of the positions defined by paragraph (9)
16 shall be included in the position classification
17 plan;

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



- 1 (19) Household employees at the official residence of the
2 president of the University of Hawaii;
- 3 (20) Employees in the department of education engaged in
4 the supervision of students during meal periods in the
5 distribution, collection, and counting of meal
6 tickets, and in the cleaning of classrooms after
7 school hours on a less than half-time basis;
- 8 (21) Employees hired under the tenant hire program of the
9 Hawaii public housing authority; provided that not
10 more than twenty-six per cent of the authority's
11 workforce in any housing project maintained or
12 operated by the authority shall be hired under the
13 tenant hire program;
- 14 (22) Positions of the federally funded expanded food and
15 nutrition program of the University of Hawaii that
16 require the hiring of nutrition program assistants who
17 live in the areas they serve;
- 18 (23) Positions filled by persons with severe disabilities
19 who are certified by the state vocational
20 rehabilitation office that they are able to perform
21 safely the duties of the positions;



- 1 (24) The sheriff;
- 2 (25) A gender and other fairness coordinator hired by the
- 3 judiciary;
- 4 (26) Positions in the Hawaii National Guard youth and adult
- 5 education programs;
- 6 (27) In the state energy office in the department of
- 7 business, economic development, and tourism, all
- 8 energy program managers, energy program specialists,
- 9 energy program assistants, and energy analysts;
- 10 (28) Administrative appeals hearing officers in the
- 11 department of human services;
- 12 (29) In the Med-QUEST division of the department of human
- 13 services, the division administrator, finance officer,
- 14 health care services branch administrator, medical
- 15 director, and clinical standards administrator;
- 16 (30) In the director's office of the department of human
- 17 services, the enterprise officer, information security
- 18 and privacy compliance officer, security and privacy
- 19 compliance engineer, and security and privacy
- 20 compliance analyst; [~~and~~]



1 [+] (31) [+] The Alzheimer's disease and related dementia
2 services coordinator in the executive office on
3 aging[-]; and
4 (32) The chief executive officer of the Hawaii commercial
5 harbors authority, all other executive officers that
6 the chief executive officer may appoint pursuant to
7 section -3(d), and positions that the chief
8 executive officer is authorized to fill by appointing
9 specially qualified employees pursuant to
10 section -3(d).

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

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

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

18 "Appropriate authority" means the governor, the respective
19 mayors, the chief justice of the supreme court, the board of
20 education, the board of regents, the state public charter school
21 commission, the Hawaii health systems corporation board, the



1 board of directors of the Hawaii commercial harbors authority,
2 the auditor, the ombudsman, and the director of the legislative
3 reference bureau. These individuals or boards may make
4 adjustments for their respective excluded employees."

5 SECTION 9. Section 103D-203, Hawaii Revised Statutes, is
6 amended as follows:

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

8 "(a) The chief procurement officer for each of the
9 following state entities shall be:

10 (1) The judiciary--the administrative director of the
11 courts;

12 (2) The senate--the president of the senate;

13 (3) The house of representatives--the speaker of the house
14 of representatives;

15 (4) The office of Hawaiian affairs--the chairperson of the
16 board;

17 (5) The University of Hawaii--the president of the
18 University of Hawaii;

19 (6) The department of education, excluding the Hawaii
20 public library system--the superintendent of
21 education;



1 (7) The Hawaii health systems corporation--the chief
2 executive officer of the Hawaii health systems
3 corporation; [~~and~~]

4 (8) The Hawaii commercial harbors authority--the chief
5 executive officer of the Hawaii commercial harbors
6 authority; and

7 ~~[(8)]~~ (9) The remaining departments of the executive branch
8 of the State and all governmental bodies
9 administratively attached to them--the administrator
10 of the state procurement office of the department of
11 accounting and general services."

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

13 "(c) For purposes of applying this chapter to the
14 judiciary, houses of the legislature, office of Hawaiian
15 affairs, University of Hawaii, department of education, Hawaii
16 commercial harbors authority, remaining departments of the
17 executive branch and all governmental bodies administratively
18 attached to them, and the several counties, unless otherwise
19 expressly provided, "State" shall mean "judiciary", "state
20 senate", "state house of representatives", "office of Hawaiian
21 affairs", "University of Hawaii", "department of education",



1 "Hawaii commercial harbors authority", "executive branch",
2 "county", "board of water supply" or "department of water
3 supply", and "semi-autonomous public transit agency",
4 respectively."

5 SECTION 10. Section 171-2, Hawaii Revised Statutes, is
6 amended to read as follows:

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

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



- 1 (4) Lands to which the United States relinquished the
2 absolute fee and ownership under section 91 of the
3 Hawaiian Organic Act prior to the admission of Hawaii
4 as a state of the United States unless subsequently
5 placed under the control of the board of land and
6 natural resources and given the status of public lands
7 in accordance with the state constitution, the
8 Hawaiian Homes Commission Act, 1920, as amended, or
9 other laws;
- 10 (5) Lands to which the University of Hawaii holds title;
- 11 (6) Lands to which the Hawaii housing finance and
12 development corporation in its corporate capacity
13 holds title;
- 14 (7) Lands to which the Hawaii community development
15 authority in its corporate capacity holds title;
- 16 (8) Lands set aside by the governor to the Hawaii public
17 housing authority or lands to which the Hawaii public
18 housing authority in its corporate capacity holds
19 title;
- 20 (9) Lands to which the department of agriculture holds
21 title by way of foreclosure, voluntary surrender, or



- 1 otherwise, to recover moneys loaned or to recover
2 debts otherwise owed the department under chapter 167;
- 3 (10) Lands that are set aside by the governor to the Aloha
4 Tower development corporation; lands leased to the
5 Aloha Tower development corporation by any department
6 or agency of the State; or lands to which the Aloha
7 Tower development corporation holds title in its
8 corporate capacity;
- 9 (11) Lands that are set aside by the governor to the
10 agribusiness development corporation; lands leased to
11 the agribusiness development corporation by any
12 department or agency of the State; or lands to which
13 the agribusiness development corporation in its
14 corporate capacity holds title;
- 15 (12) Lands to which the Hawaii technology development
16 corporation in its corporate capacity holds title;
17 [~~and~~]
- 18 (13) Lands to which the department of education holds
19 title; and
- 20 (14) Lands to which the Hawaii commercial harbors authority
21 holds title;



1 provided that, except as otherwise limited under federal law and
2 except for state land used as an airport as defined in section
3 262-1, public lands shall include the air rights over any
4 portion of state land upon which a county mass transit project
5 is developed after July 11, 2005[-]; and provided further that
6 lands to which the Hawaii commercial harbors authority holds
7 title shall be considered "public lands" for the purpose of
8 accounting of all receipts from lands that are described in
9 section 5(f) of the Admission Act, Public Law 86-3, for the
10 prior fiscal year, pursuant to section 5 of Act 178, Session
11 Laws of Hawaii 2006."

12 SECTION 11. Section 266-17, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) The [~~department of transportation~~] Hawaii commercial
15 harbors authority shall adjust, fix, and enforce the rates
16 assessable and chargeable by it in respect to dockage, wharfage,
17 demurrage, and other rates and fees pertaining to harbors,
18 wharves, and properties managed and operated by it so as to
19 produce from the rates and fees, in respect to all harbors,
20 wharves, and other properties, except those that are principally



1 used for recreation or the landing of fish, revenues sufficient
2 to:

- 3 (1) Pay when due the principal of and interest on all
4 bonds and other obligations for the payment of which
5 the revenue is or has been pledged, charged, or
6 otherwise encumbered, or which are otherwise payable
7 from the revenue or from a special fund maintained or
8 to be maintained from the revenue, including reserves
9 therefor, and to maintain the special fund in an
10 amount at least sufficient to pay when due all bonds
11 or other revenue obligations and interest thereon,
12 which are payable from the special fund, including
13 reserves therefor;
- 14 (2) Provide for all expenses of operation and maintenance
15 of the properties, including reserves therefor, and
16 the expenses of the department in connection with
17 operation and maintenance; and
- 18 (3) Reimburse the general fund of the State for all bond
19 requirements for general obligation bonds which are or
20 have been issued for harbor or wharf improvements, or
21 to refund any of the improvement bonds, excluding



1 bonds, the proceeds of which were or are to be
2 expended for improvements which are or will be neither
3 revenue producing nor connected in their use directly
4 with revenue producing properties."

5 SECTION 12. On and after the transfer completion date
6 established by the Hawaii commercial harbors authority in
7 section 14(b) of this Act, and until the revisor of statutes
8 makes the amendments to applicable provisions in chapters 102,
9 266, and 268, Hawaii Revised Statutes, described in this
10 section, every reference to the department of transportation or
11 "department" or its role in awarding concessions in chapters
12 102, 266, and 268, Hawaii Revised Statutes, shall be a reference
13 to the Hawaii commercial harbors authority, and every reference
14 to the director of transportation or "director" or the
15 director's role in awarding concessions in chapters 102, 266,
16 and 268, Hawaii Revised Statutes, shall be a reference to the
17 chief executive officer of the Hawaii commercial harbors
18 authority. After the transfer completion date, but no later
19 than when the subsequent supplements to the Hawaii Revised
20 Statutes are prepared, the revisor of statutes shall make
21 appropriate changes, including, without limitation, substituting



1 the phrase "chief executive officer" for the terms "director" or
2 "director of transportation", the term "Hawaii commercial
3 harbors authority" for the term "department of transportation",
4 and the term "authority" for the term "department."

5 SECTION 13. The Hawaii commercial harbors authority shall
6 succeed to the jurisdiction, powers, and responsibilities of the
7 department of transportation over commercial maritime
8 operations, commercial harbors, and commercial maritime
9 facilities, including all of the functions relating to
10 commercial harbors and commercial maritime operations performed
11 by the department and its harbors division, on the transfer
12 completion date published by the Hawaii commercial harbors
13 authority pursuant to section 14(b) of this Act, which date
14 shall be no later than December 31, 2023.

15 Thereafter, to the extent that the Hawaii commercial
16 harbors authority is authorized under this Act to exercise
17 powers and duties that are also granted to other departments,
18 offices, or boards of the State, with respect to commercial
19 harbors, commercial maritime facilities, and commercial maritime
20 operations, the Hawaii commercial harbors authority shall
21 exclusively exercise those powers and perform those duties.



1 SECTION 14. (a) Not prior to January 1, 2021, but no
2 later than September 30, 2021, the governor shall designate a
3 representative who shall facilitate the Hawaii commercial
4 harbors authority's orderly succession to the jurisdiction,
5 powers, functions, rights, benefits, obligations, assets,
6 liabilities, funds, accounts, contracts, and all other things
7 currently held, used, incurred, or performed by the department
8 of transportation, its director and staff, and its harbors
9 division, in administering and exercising the authority and
10 fulfilling the responsibilities authorized or conferred upon the
11 department of transportation and the director of transportation,
12 by chapters 102, 266, and 268, Hawaii Revised Statutes.

13 Not prior to October 1, 2021, but no later than
14 December 31, 2021, the governor, president of the senate, and
15 speaker of the house of representatives shall appoint the
16 respective members of the board of directors of the Hawaii
17 commercial harbors authority.

18 To facilitate the Hawaii commercial harbors authority's
19 timely assumption of the department of transportation's
20 authority and responsibilities, including all of the
21 department's associated bonds, notes, and obligations as



1 described in sections 16 and 17, the department of
2 transportation, the department of accounting and general
3 services, the department of human resources development, the
4 state procurement office, and any other state department or
5 agency, if requested by the authority, shall enter into a
6 memorandum of understanding with the authority to:

- 7 (1) Provide administrative support services for the
8 authority pending the transfer of employees from the
9 department of transportation to the Hawaii commercial
10 harbors authority pursuant to section 18 of this Act;
- 11 (2) Develop a policy and set of robust procurement
12 procedures that foster accountability, transparency
13 and oversight of contracts, to include compliance with
14 federal procurement requirements;
- 15 (3) Assist the authority with the organization of its
16 human resources development functions, including
17 establishing:
- 18 (A) A human resources office;
- 19 (B) The authority's civil service and civil service
20 positions and the classification system, merit
21 appeals board, recruitment system, performance



- 1 appraisal system, and the administrative rules,
2 policies, standards, and procedures, including
3 internal complaint procedures, adopted to support
4 its civil service; and
- 5 (C) The authority's exempt and excluded positions,
6 and guidelines, procedures, and policies for
7 filling them, and compensating the officers and
8 employees who fill them;
- 9 (4) Assist the authority in establishing its accounting,
10 budgeting, fund management, and communication and
11 electronic information systems, and creating
12 appropriate interfaces between the authority's
13 accounting, budgeting, fund management, communication
14 and electronic information systems, and those of the
15 department of transportation, and other state
16 agencies;
- 17 (5) Assist the authority in identifying the plans and
18 reports that departments and agencies administratively
19 attached to a department are required to prepare for
20 the governor, the legislature, or another state
21 department or agency with respect to commercial



1 maritime activities or the State's commercial harbor
2 system; determining whether those plans and reports
3 have been prepared and will be transferred to the
4 authority on the transfer completion date; and
5 preparing the same for the authority, if they do not
6 exist;

7 (6) Expeditiously transfer or otherwise facilitate the
8 authority's acquisition or assumption of all of the
9 powers, functions, rights, benefits, obligations,
10 assets, funds, accounts, contracts, and all other
11 things held, used, incurred, or performed by the
12 department of transportation, its director and staff,
13 and its harbors division, in exercising the authority
14 and fulfilling and administering the responsibilities
15 authorized or conferred upon the department of
16 transportation and the director of transportation by
17 chapters 102, 266, and 268, Hawaii Revised Statutes;
18 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 commercial harbors
2 authority, with the concurrence of the director of
3 transportation and the governor, shall establish the transfer
4 completion date, which shall be no later than December 31, 2023,
5 and publish notice of 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 Commandant of the United States Coast
15 Guard, and the head of every other state department;
16 and

17 (4) Posting the notice prominently at every commercial
18 harbor and commercial maritime 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 15. 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 16. 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 harbors division in connection
16 with the department's exercise of the authority and performance
17 of the duties and responsibilities conferred upon it and its
18 director by chapters 102, 266, and 268, Hawaii Revised Statutes,
19 until the time that the obligations, including any accounts
20 payable, accrued paid time off, debt, capital leases, and other
21 obligations incurred before the transfer completion date, have



1 been assumed by the Hawaii commercial harbors authority, which
2 shall not occur prior to the transfer completion date. All
3 collective bargaining disputes or claims against the department
4 grounded in an act or omission or an event that occurred prior
5 to the transfer completion date shall remain the responsibility
6 of the department of transportation. All liabilities arising
7 out of the Hawaii commercial harbors authority's exercise of the
8 authority and performance of the duties and responsibilities
9 conferred upon it and its chief executive officer by chapters
10 102, 266, and 268, Hawaii Revised Statutes, after the transfer
11 completion date shall be the responsibility of the authority.
12 The assumption by the Hawaii commercial harbors authority of the
13 bonds, notes, or other obligations of the department of
14 transportation relating to the State's commercial harbors system
15 and commercial maritime facilities shall be subject to the terms
16 and provisions of any certificate, indenture, or resolution
17 securing those bonds, notes, or other obligations. On the
18 transfer completion date, the Hawaii commercial harbors
19 authority shall assume responsibility for all rights, duties,
20 penalties, and proceedings of the department of transportation



1 related to the State's commercial harbors system and commercial
2 maritime facilities.

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



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

14 SECTION 18. The Hawaii commercial harbors authority shall
15 recognize all bargaining units and collective bargaining
16 agreements existing at the time of transfer to the authority.
17 All employees who are subject to chapter 76, Hawaii Revised
18 Statutes, and occupy civil service positions and whose functions
19 are transferred to the Hawaii commercial harbors authority by
20 this Act shall retain their civil service status, whether
21 permanent or temporary. The employees shall be transferred to



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

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

12 Any employee who, prior to this Act, is exempt from civil
13 service and is transferred to the authority as a consequence of
14 this Act may retain the employee's exempt status, but shall not
15 be appointed to a civil service position as a consequence of
16 this Act. An exempt employee who is transferred by this Act
17 shall not suffer any loss of prior service credit, vacation or
18 sick leave credits previously earned, or other employee benefits
19 or privileges as a consequence of this Act. The chief executive
20 officer of the Hawaii commercial harbors authority may prescribe



1 the duties and qualifications of these employees and fix their
2 salaries without regard to chapter 76, Hawaii Revised Statutes.

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

6 SECTION 19. On or no more than ninety days after the
7 transfer completion date, all appropriations, records,
8 equipment, machines, files, supplies, contracts, books, papers,
9 documents, maps, and other personal property heretofore made,
10 used, acquired, or held by the department of transportation
11 relating to the functions transferred to the Hawaii commercial
12 harbors authority shall be transferred with the functions to
13 which they relate.

14 SECTION 20. All rules, policies, procedures, guidelines,
15 and other material adopted or developed by the department of
16 transportation to implement provisions of the Hawaii Revised
17 Statutes that are reenacted or made applicable to the Hawaii
18 commercial harbors authority by this Act shall remain in full
19 force and effect on and after the transfer completion date
20 established pursuant to section 14(b) of this Act, until amended
21 or repealed by the Hawaii commercial harbors authority pursuant



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

7 SECTION 21. All deeds, executive orders, leases,
8 contracts, loans, agreements, permits, or other documents
9 executed or entered into by or on behalf of the department of
10 transportation, pursuant to the provisions of the Hawaii Revised
11 Statutes, that are reenacted or made applicable to the Hawaii
12 commercial harbors authority by this Act shall remain in full
13 force and effect. On the transfer completion date established
14 pursuant to section 14(b) of this Act, every reference to the
15 department of transportation in those deeds, executive orders,
16 leases, contracts, loans, agreements, permits, or other
17 documents shall be construed as a reference to the Hawaii
18 commercial harbors authority or the board of directors of the
19 authority.

20 SECTION 22. There is appropriated out of the harbor
21 special fund the sum of \$ or so much thereof as may be



1 necessary for fiscal year 2020-2021 to begin preparations for
2 the transfer of functions from the department of transportation
3 to the Hawaii commercial harbors authority pursuant to this Act.

4 The sum appropriated shall be expended by the Hawaii
5 commercial harbors authority for the purposes of this Act.

6 SECTION 23. If any provision of this Act, or the
7 application thereof to any person or circumstance, is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the Act that can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

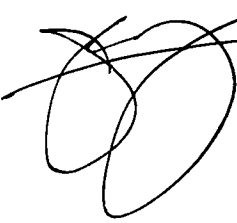
12 SECTION 24. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 25. This Act shall take effect on July 1, 2020;
15 provided that the amendments made to section 103D-203, Hawaii
16 Revised Statutes, by section 9 of this Act shall not be repealed
17 when that section is reenacted on June 30, 2021, pursuant to
18 section 6 of Act 42, Session Laws of Hawaii 2018.

19

 INTRODUCED BY: 
 



ASLS
~~ASLS~~ ASLS




S.B. NO. 3177

Report Title:

Hawaii Commercial Harbors Authority; Establishment;
Appropriation

Description:

Establishes a Hawaii Commercial Harbors Authority. 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.

