
A BILL FOR AN ACT

RELATING TO COMMERCIAL PORT ADMINISTRATION.

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

1 SECTION 1. Section 26-15, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The department shall manage and administer the public
4 lands of the State and minerals thereon and all water and
5 coastal areas of the State except the commercial [~~harbor~~] port
6 areas of the State, including the soil conservation function,
7 the forests and forest reserves, aquatic life, wildlife
8 resources, state parks, including historic sites, and all
9 activities thereon and therein including, but not limited to,
10 boating, ocean recreation, and coastal areas programs."

11 SECTION 2. Section 26-19, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) The department of transportation shall be headed by a
14 single executive to be known as the director of transportation.
15 The department shall establish, maintain, and operate
16 transportation facilities of the State, including highways,
17 airports, [~~harbors,~~] commercial ports, and any other

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1 transportation facilities and activities as may be authorized by
2 law."

3 SECTION 3. Section 28-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§28-2 Prosecutes offenders, enforces bonds. The attorney
6 general shall be vigilant and active in detecting offenders
7 against the laws of the State[7] and shall prosecute the same
8 with diligence. The attorney general shall also enforce all
9 bonds and other obligations in favor of the State that may be
10 placed in the attorney general's hands for that purpose, by any
11 person having the lawful custody of the papers; and the attorney
12 general shall likewise be diligent in prosecuting all persons
13 who may obstruct any street, channel, harbor, commercial port,
14 wharf, or other highway, or any stream or public watercourse, or
15 commit any trespass, or waste on any portion of the public
16 domain, or other public property."

17 SECTION 4. Section 36-29, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§36-29 Transfer from [~~harbor~~] commercial port special
20 fund. Any other law to the contrary notwithstanding, there
21 shall be deducted from time to time by the director of finance
22 for the purpose of defraying the prorated estimate of central

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1 service expenses of government in relation to the [~~harbor~~]
2 commercial port special fund five per cent of all receipts and
3 deposits in the [~~harbor~~] commercial port special fund after
4 deducting therefrom any amounts pledged, charged, or encumbered
5 for the payment of bonds or interest thereon during the current
6 year, from which receipts or deposits no deduction of five per
7 cent has previously been made. The deductions shall be
8 transferred to the general fund of the State and become general
9 realizations of the State. For the purposes of this section,
10 the term "any amount pledged, charged, or encumbered for the
11 payment of bonds or interest thereon during the current year"
12 shall include:

- 13 (1) Amounts [~~which~~] that are so pledged, charged or
14 encumbered;
15 (2) Amounts otherwise required to be applied to the
16 payment of principal of and interest on revenue bonds
17 or other revenue obligations;
18 (3) Amounts required to be paid into a separate special
19 fund for the payment of principal of and interest on
20 revenue bonds or other revenue obligations payable
21 from the second separate special fund; and

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(4) Amounts required by law to be paid from the ~~[harbor]~~
commercial port special fund into the general fund of
the State to reimburse the general fund for bond
requirements for general obligation bonds issued for
harbor or commercial port purposes.

The second separate special fund maintained by deposits from the
~~[harbor]~~ commercial port special fund shall not be deemed to be
a special fund within the meaning of section 36-27 or section
36-30. The director of transportation shall cooperate with the
director of finance in effecting the transfer."

SECTION 5. Section 37-53, Hawaii Revised Statutes, is
amended to read as follows:

"§37-53 Transfer of special funds. At any time during a
fiscal year, notwithstanding any other law to the contrary, any
department may, with the approval of the governor or the
director of finance if so delegated by the governor, transfer
from any special fund relating to such department to the general
revenues of the State all or any portion of moneys determined to
be in excess of fiscal year requirements for such special fund,
except for special funds under the control of the department of
transportation relating to highways, airports, transportation
use, and ~~[harbors]~~ commercial port activities, special funds

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1 under the control of the Hawaii health systems corporation or
2 subaccounts under the control of its regional system boards, and
3 special funds of the University of Hawaii. At any time, the
4 department of transportation, with the approval of the governor
5 or the director of finance if so delegated by the governor, may
6 transfer from any special fund under the control of the
7 department of transportation, or from any account within any
8 such special fund, to the general revenues of the State or to
9 any other special fund under the control of the department of
10 transportation all or any portion of moneys determined to be in
11 excess of requirements for the ensuing twelve months determined
12 as prescribed by rules adopted pursuant to chapter 91; provided
13 that no such transfer shall be made ~~[which]~~ that would cause a
14 violation of federal law or federal grant agreements."

15 SECTION 6. Section 76-16, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

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

- 21 (1) Commissioned and enlisted personnel of the Hawaii
22 National Guard and positions in the Hawaii National

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Guard that are required by state or federal laws or regulations or orders of the National Guard to be filled from those commissioned or enlisted personnel;

(2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any contract may be for any period not exceeding one year;

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

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

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

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- 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
22 clerks for the civil administrative judge of the

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

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

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- 1 (11) (A) Teachers, principals, vice-principals, complex
2 area superintendents, deputy and assistant
3 superintendents, other certificated personnel,
4 and no more than twenty noncertificated
5 administrative, professional, and technical
6 personnel not engaged in instructional work;
7 (B) Effective July 1, 2003, teaching assistants,
8 educational assistants, bilingual or bicultural
9 school-home assistants, school psychologists,
10 psychological examiners, speech pathologists,
11 athletic health care trainers, alternative school
12 work study assistants, alternative school
13 educational or supportive services specialists,
14 alternative school project coordinators, and
15 communications aides in the department of
16 education;
17 (C) The special assistant to the state librarian and
18 one secretary for the special assistant to the
19 state librarian; and
20 (D) Members of the faculty of the university of
21 Hawaii, including research workers, extension
22 agents, personnel engaged in instructional work,

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1 and administrative, professional, and technical
2 personnel of the university;

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

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

9 (B) Positions filled with students in accordance with
10 guidelines for established state employment
11 programs; and

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

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1 (14) A custodian or guide at Iolani Palace, the Royal

2 Mausoleum, and Hulihee Palace;

3 (15) Positions filled by persons employed on a fee,

4 contract, or piecework basis, who may lawfully perform

5 their duties concurrently with their private business

6 or profession or other private employment and whose

7 duties require only a portion of their time, if it is

8 impracticable to ascertain or anticipate the portion

9 of time to be devoted to the service of the State;

10 (16) Positions of first deputies or first assistants of

11 each department head appointed under or in the manner

12 provided in section 6, article V, of the Hawaii State

13 Constitution; three additional deputies or assistants

14 either in charge of the highways, [~~harbors,~~

15 commercial ports, and airports divisions or other

16 functions within the department of transportation as

17 may be assigned by the director of transportation,

18 with the approval of the governor; one additional

19 deputy in the department of human services either in

20 charge of welfare or other functions within the

21 department as may be assigned by the director of human

22 services; four additional deputies in the department

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1 of health, each in charge of one of the following:
2 behavioral health, environmental health, hospitals,
3 and health resources administration, including other
4 functions within the department as may be assigned by
5 the director of health, with the approval of the
6 governor; two additional deputies in charge of the law
7 enforcement programs, administration, or other
8 functions within the department of law enforcement as
9 may be assigned by the director of law enforcement,
10 with the approval of the governor; three additional
11 deputies each in charge of the correctional
12 institutions, rehabilitation services and programs,
13 and administration or other functions within the
14 department of corrections and rehabilitation as may be
15 assigned by the director of corrections and
16 rehabilitation, with the approval of the governor; two
17 administrative assistants to the state librarian; and
18 an administrative assistant to the superintendent of
19 education;

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

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

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

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

(19) Household employees at the official residence of the president of the university of Hawaii;

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

(21) Employees hired under the tenant hire program of the Hawaii public housing authority; provided that no more than twenty-six per cent of the authority's workforce in any housing project maintained or operated by the

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

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1 (29) In the Med-QUEST division of the department of human
2 services, the division administrator, finance officer,
3 health care services branch administrator, medical
4 director, and clinical standards administrator;

5 (30) In the director's office of the department of human
6 services, the enterprise officer, information security
7 and privacy compliance officer, security and privacy
8 compliance engineer, security and privacy compliance
9 analyst, information technology implementation
10 manager, assistant information technology
11 implementation manager, resource manager, community or
12 project development director, policy director, special
13 assistant to the director, and limited English
14 proficiency project manager or coordinator;

15 (31) The Alzheimer's disease and related dementia services
16 coordinator in the executive office on aging;

17 (32) In the Hawaii emergency management agency, the
18 executive officer, public information officer, civil
19 defense administrative officer, branch chiefs, and
20 emergency operations center state warning point
21 personnel; provided that for state warning point
22 personnel, the director shall determine that

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recruitment through normal civil service recruitment
procedures would result in delay or noncompliance;

(33) The executive director and seven full-time
administrative positions of the school facilities
authority;

(34) Positions in the Mauna Kea stewardship and oversight
authority;

(35) In the office of homeland security of the department
of law enforcement, the statewide interoperable
communications coordinator;

(36) In the social services division of the department of
human services, the business technology analyst;

(37) The executive director and staff of the 911 board;

(38) The software developer supervisor and senior software
developers in the department of taxation;

(39) In the department of law enforcement, five Commission
on Accreditation for Law Enforcement Agencies, Inc.,
coordinator positions;

(40) The state fire marshal and deputy state fire marshal
in the office of the state fire marshal;

(41) The administrator for the law enforcement standards
board;

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1 (42) In the office of the director of taxation, the data

2 privacy officer and tax business analysts; and

3 [+](43)[+] All positions filled by the Hawaii tourism

4 authority within the department of business, economic

5 development, and tourism.

6 The director shall determine the applicability of this

7 section to specific positions.

8 Nothing in this section shall be deemed to affect the civil

9 service status of any incumbent as it existed on July 1, 1955."

10 SECTION 7. Section 102-14, Hawaii Revised Statutes, is

11 amended by amending subsection (g) to read as follows:

12 "(g) This section shall not apply to the judiciary history

13 center facilities in the Ali'iolani Hale building, University of

14 Hawai'i system, public library system facilities, department of

15 education facilities, department of transportation airport and

16 [~~harbor~~] commercial port restaurant and lounge facilities and

17 operations, public parks, and state and county facilities

18 designed and intended for use as facilities for entertainment

19 and other public events."

20 SECTION 8. Section 171-3, Hawaii Revised Statutes, is

21 amended by amending subsection (a) to read as follows:

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1 "(a) The department of land and natural resources shall be
2 headed by an executive board to be known as the board of land
3 and natural resources. The department shall manage, administer,
4 and exercise control over public lands, the water resources,
5 ocean waters, navigable streams, coastal areas (excluding
6 commercial [~~harbor~~] port areas), and minerals and all other
7 interests therein and exercise such powers of disposition
8 thereof as may be authorized by law. The department shall also
9 manage and administer the state parks, historical sites,
10 forests, forest reserves, aquatic life, aquatic life
11 sanctuaries, public fishing areas, boating, ocean recreation,
12 coastal programs, wildlife, wildlife sanctuaries, game
13 management areas, public hunting areas, natural area reserves,
14 and other functions assigned by law."

15 SECTION 9. Section 171-24, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§171-24 Land conveyances, preparation, signing, record,**
18 **copies.** Except for the preparation and execution of leases and
19 licenses and the issuance of revocable permits and rights of
20 entry by the department of transportation, in its harbor,
21 commercial port, and airport functions, all land patents, deeds,
22 leases, grants, or other conveyances of any public land or any

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1 interest therein, shall be prepared by the department of land
2 and natural resources. The department of transportation shall,
3 within thirty days after the execution or issuance of such
4 documents, file or record as directed by the board of land and
5 natural resources the original of the same with the board.

6 Documents setting aside lands for public purposes or
7 withdrawing the same shall be signed by the governor. All other
8 documents prepared by the department of land and natural
9 resources shall be signed by its chairperson or any authorized
10 employee.

11 The board shall keep a complete record of all such
12 documents. The record shall be open to public inspection and
13 the board shall furnish a certified copy, under its official
14 seal, of any document to any person applying therefor, upon
15 payment of reasonable charges set by the board for certified
16 copies."

17 SECTION 10. Section 188F-2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§188F-2 West Hawaii regional fishery management area;**
20 **establishment.** The department of land and natural resources
21 shall establish the West Hawaii regional fishery management area
22 to improve the management of consumptive and nonconsumptive uses

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1 of aquatic resources encompassing the regional ocean area on the
2 west coast of Hawaii Island, from Ka Lae, Kau (South Point) to
3 Upolu Point, North Kohala, but not including the port of
4 Kawaihae [~~commercial~~] and Kawaihae harbor."

5 SECTION 11. Section 200-10, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) The permittee shall pay moorage fees to the
8 department for the use permit that shall be based on but not
9 limited to the use of the vessel, the vessel's effect on the
10 harbor, use of facilities, and the cost of administering the
11 mooring program; provided that:

12 (1) Except for commercial maritime activities in which a
13 tariff is established by the department of
14 transportation, moorage fees shall be established by
15 appraisal by a state-licensed appraiser approved by
16 the department;

17 (2) For commercial maritime activities in which a tariff
18 is established by the [~~harbors~~] commercial ports
19 division of the department of transportation, the
20 department may adopt the published tariff of the
21 [~~harbors~~] commercial ports division of the department

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1 of transportation or establish the fee by appraisal by
2 a state-licensed appraiser approved by the department;

3 (3) An application fee shall be collected when applying
4 for moorage in state small boat harbors and shall
5 thereafter be collected annually when the application
6 is renewed; provided that the application fee shall be
7 set by the department;

8 (4) If a recreational vessel is used as a place of
9 principal habitation, the permittee shall pay, in lieu
10 of the moorage fee required by paragraph (1), a
11 monthly liveaboard fee that shall be two times the
12 moorage fee that would otherwise be assessed for a
13 vessel of the same size;

14 (5) If a vessel is used for commercial purposes from the
15 vessel's permitted mooring, the permittee shall pay,
16 in lieu of the moorage fee required by paragraph (1),
17 a monthly fee that shall be the greater of:

18 (A) Three per cent of the gross revenues derived from
19 the use of the vessel;

20 (B) \$1.50 per passenger carried for hire; or

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1 (C) Two times the moorage fee that would otherwise be
2 assessed for a recreational vessel of the same
3 size;

4 (6) The department is authorized to assess and collect
5 utility fees, including electrical and water charges,
6 and common-area maintenance fees in small boat
7 harbors; and

8 (7) All fees established by appraisal pursuant to this
9 subsection shall be set at fair market value."

10 SECTION 12. Section 205A-48, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§205A-48 Conflict of other laws.** In case of a conflict
13 between the requirements of any other state law or county
14 ordinance regarding shoreline setback lines, the more
15 restrictive requirements shall apply in furthering the purposes
16 of this part. Nothing contained in this part shall be construed
17 to diminish the jurisdiction of the state department of
18 transportation over wharves, airports, docks, piers, or other
19 commercial [~~harbors,~~] ports, and any other maritime facilities
20 constructed by the State; provided that such plans are submitted
21 for the review and information of the officer of the respective
22 agency charged with the administration of the county zoning

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1 laws, and found not to conflict with any county ordinances,
2 zoning laws, and building codes."

3 SECTION 13. Section 206J-4, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The development corporation shall consist of a board
6 of directors having five voting members: The director of
7 business, economic development, and tourism or the director's
8 designee; the chairperson of the board of land and natural
9 resources or the chairperson's designee; the deputy director of
10 transportation, ~~[harbors]~~ commercial ports division; one member
11 to be appointed by the speaker of the house of representatives;
12 and one member to be appointed by the president of the senate.
13 The deputy director of transportation, ~~[harbors]~~ commercial
14 ports division, shall serve as chairperson of the board."

15 SECTION 14. Section 206J-5, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) The development corporation shall have all the powers
18 necessary to carry out its purposes, including the following
19 powers:

20 (1) To sue and be sued;

21 (2) To have a seal and alter the same at its pleasure;

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- (3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (4) To make and alter bylaws for its organization and internal management;
- (5) To adopt rules under chapter 91 necessary to effectuate this chapter in connection with its projects, operations, properties, and facilities;
- (6) Through its chief executive officer, to appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, consistent with chapter 76; its chief executive officer may also appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapter 76;
- (7) To prepare or cause to be prepared a development plan for the Aloha Tower complex, incorporating the needs of the department of transportation and accommodating the plans, specifications, designs, or estimates of any project acceptable to the development corporation;
- (8) To own, lease, hold, clear, improve, and rehabilitate real, personal, or mixed property and to assign,

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1 exchange, transfer, convey, lease, sublease, or
2 encumber any project or improvement, including
3 easements, constituting part of a project within the
4 Aloha Tower complex, except that required for
5 necessary maritime purposes, including leases or other
6 agreements for the rehabilitation, repair,
7 maintenance, and operation of the Aloha Tower;

8 (9) By itself, or in conjunction with qualified persons,
9 to develop, construct, reconstruct, rehabilitate,
10 improve, alter, or repair or provide for the
11 development, construction, reconstruction,
12 rehabilitation, improvement, alteration, or repair of
13 any project, including projects or any portion thereof
14 under the control or jurisdiction of qualified
15 persons; to own, hold, assign, transfer, convey,
16 exchange, lease, sublease, or encumber any project,
17 including projects or any portion thereof under the
18 control or jurisdiction of qualified persons;

19 (10) Notwithstanding any other provision of law to the
20 contrary, to arrange or initiate appropriate action
21 for the planning, replanning, opening, grading,
22 relocating, or closing of streets, roads, roadways,

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1 alleys, easements, piers, or other places, the
2 furnishing of facilities, the acquisition of property
3 or property rights, or the furnishing of property,
4 development rights, or services in connection with a
5 project;

6 (11) To grant options or renew any lease entered into by it
7 in connection with any project, on terms and
8 conditions as it deems advisable;

9 (12) To prepare or cause to be prepared plans,
10 specifications, designs, and estimates of project cost
11 for the development, construction, reconstruction,
12 rehabilitation, improvement, alteration, or repair of
13 any project, and from time to time to modify such
14 plans, specifications, designs, or estimates;

15 (13) To provide advisory, consultative, training, and
16 educational services, technical assistance, and advice
17 to any person, partnership, or corporation, either
18 public or private, in order to carry out the purposes
19 of this chapter, and engage the services of
20 consultants on a contractual basis for rendering
21 professional and technical assistance and advice;

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1 (14) To procure insurance against any loss in connection
2 with its property and other assets and operations in
3 such amounts and from such insurers as it deems
4 desirable;

5 (15) To contract for and accept gifts or grants in any form
6 from any public agency or from any other source;

7 (16) To pledge or assign all or any part of the moneys,
8 rents, charges, or other revenues and any proceeds
9 derived by the development corporation from proceeds
10 of insurance or condemnation awards, less guarantees
11 to the [~~harbor~~] commercial port special fund for the
12 loss of revenues or incurrence of costs and expenses
13 because of any action taken by the development
14 corporation; and

15 (17) To issue bonds of the development corporation for the
16 purpose of providing funds for any of its corporate
17 purposes."

18 SECTION 15. Section 206J-12, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) The development corporation, with the approval of the
21 governor, may issue bonds in such amounts as authorized from
22 time to time by law and as deemed advisable for any of its

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1 corporate purposes. The principal of, premium, if any, and
2 interest on such bonds shall be payable, subject to the prior
3 payment to the [~~harbor~~] commercial port special fund for the
4 loss of revenues or incurrence of costs and expenses because of
5 any action taken by the development corporation or of any rent
6 payable to the department of transportation for the lease of
7 properties within the Aloha Tower complex:

8 (1) Exclusively from the moneys derived from rates,
9 rentals, fees, and charges of the project financed
10 with the proceeds of such bonds imposed under section
11 206J-5(b), or from such moneys together with any grant
12 from the government in aid of such project; or

13 (2) Exclusively from the moneys derived from rates,
14 rentals, fees, and charges of certain designated
15 projects imposed under section 206J-5(b), whether or
16 not they are financed in whole or in part with the
17 proceeds of the bonds; or

18 (3) From the moneys derived from rates, rentals, fees, and
19 charges imposed under section 206J-5(b), generally,
20 and any other revenues derived by the development
21 corporation from whatever source.

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1 All revenue bonds authorized by this section shall be issued
2 pursuant to part III of chapter 39, except as provided in this
3 chapter. The bonds shall be secured by a pledge of such moneys
4 and may be additionally secured by a mortgage of any project or
5 other property of the development corporation to the extent of
6 its interest therein. Neither the board members nor any person
7 executing the bonds shall be liable personally on the bonds by
8 reason of the issuance thereof."

9 SECTION 16. Section 226-17, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) To achieve the transportation objectives, it shall be
12 the policy of this State to:

- 13 (1) Design, program, and develop a multi-modal system in
14 conformance with desired growth and physical
15 development as stated in this chapter;
- 16 (2) Coordinate state, county, federal, and private
17 transportation activities and programs toward the
18 achievement of statewide objectives;
- 19 (3) Encourage a reasonable distribution of financial
20 responsibilities for transportation among
21 participating governmental and private parties;

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- 1 (4) Provide for improved accessibility to shipping,
2 docking, and storage facilities;
- 3 (5) Promote a reasonable level and variety of mass
4 transportation services that adequately meet statewide
5 and community needs;
- 6 (6) Encourage transportation systems that serve to
7 accommodate present and future development needs of
8 communities;
- 9 (7) Encourage a variety of carriers to offer increased
10 opportunities and advantages to interisland movement
11 of people and goods;
- 12 (8) Increase the capacities of airport and [~~harbor~~]
13 commercial port systems and support facilities to
14 effectively accommodate transshipment and storage
15 needs;
- 16 (9) Encourage the development of transportation systems
17 and programs [~~which~~] that would assist statewide
18 economic growth and diversification;
- 19 (10) Encourage the design and development of transportation
20 systems sensitive to the needs of affected communities
21 and the quality of Hawaii's natural environment;

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(11) Encourage safe and convenient use of low-cost, energy-efficient, non-polluting means of transportation;

(12) Coordinate intergovernmental land use and transportation planning activities to ensure the timely delivery of supporting transportation infrastructure in order to accommodate planned growth objectives; and

(13) Encourage diversification of transportation modes and infrastructure to promote alternate fuels and energy efficiency."

SECTION 17. Section 237-6, Hawaii Revised Statutes, is amended to read as follows:

"§237-6 "Contractor", "contracting", "federal cost-plus contractor", defined. "Contracting" means the business activities of a contractor.

"Contractor" includes, for purposes of this chapter:

(1) Every person engaging in the business of contracting to erect, construct, repair, or improve buildings or structures, of any kind or description, including any portion thereof, or to make any installation therein, or to make, construct, repair, or improve any highway, road, street, sidewalk, ditch, excavation, fill,

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1 bridge, shaft, well, culvert, sewer, water system,
2 drainage system, dredging or harbor improvement
3 project, commercial port improvement project, electric
4 or steam rail, lighting or power system, transmission
5 line, tower, dock, wharf, or other improvements;

6 (2) Every person engaging in the practice of architecture,
7 professional engineering, land surveying, and
8 landscape architecture, as defined in section 464-1;
9 and

10 (3) Every person engaged in the practice of pest control
11 or fumigation as a pest control operator as defined in
12 section 460J-1.

13 "Federal cost-plus contractor" means a contractor having a
14 contract with the United States or an instrumentality thereof,
15 excluding national banks, where, by the terms of the contract,
16 the United States or such instrumentality, excluding national
17 banks, agrees to reimburse the contractor for the cost of
18 material, plant, or equipment used in the performance of the
19 contract and for taxes which the contractor may be required to
20 pay with respect to such material, plant, or equipment, whether
21 the contractor's profit is computed in the form of a fixed fee

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1 or on a percentage basis; and also means a subcontractor under
2 such a contract, who also operates on a cost-plus basis."

3 SECTION 18. Chapter 266, Hawaii Revised Statutes, is
4 amended by amending its title to read as follows:

5 "CHAPTER 266

6 [HARBORS] COMMERCIAL PORTS"

7 SECTION 19. Section 266-1, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "\$266-1 Department of transportation; ~~[harbors,]~~
10 commercial ports; jurisdiction. (a) All commercial ports,
11 harbors, and roadsteads, and all commercial ports, harbors, and
12 other waterfront improvements belonging to or controlled by the
13 State, and all vessels and shipping within the commercial ports,
14 harbors, and roadsteads shall be under the care and control of
15 the department [~~of transportation~~].

16 (b) For the purpose of this chapter [~~,"commercial~~
17 ~~harbors"~~]:

18 "Anchorage ground" has the same meaning as in title 33 Code
19 of Federal Regulations section 110.235(a).

20 "Cargo" means the load, freight, or burden of a vessel
21 exclusive of the vessel's stores, passengers, fuel, and ballast.

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1 "Commercial port" means ~~[a harbor or off-shore mooring~~
2 ~~facility which]~~ an anchorage ground or a marine terminal
3 facility that is primarily for the movement of ~~[commercial]~~
4 cargo, passenger and fishing vessels entering, leaving, or
5 traveling within the State, and facilities and supporting
6 services for loading, off-loading, and handling of cargo,
7 passengers, and vessels.

8 "Department" means the department of transportation.

9 "Harbor" refers to the following areas of water that
10 provide a natural or artificial haven for vessels and that fall
11 under the jurisdiction of the department of transportation:

12 (1) Port Allen harbor;

13 (2) Nāwiliwili harbor;

14 (3) Kalaeloa Barbers Point harbor;

15 (4) Honolulu harbor;

16 (5) Kaunakakai harbor;

17 (6) Kaunapali harbor;

18 (7) Kahului harbor;

19 (8) Hāna harbor;

20 (9) Kawaihae harbor; and

21 (10) Hilo harbor.

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1 "Harbor" does not include any small boat harbor or any harbor
2 that is not under the jurisdiction of the department of
3 transportation.

4 "Passenger" means every individual on board a vessel other
5 than the master and members of the crew or other individuals
6 employed in the commercial business of that vessel.

7 "Vessel" means every description of watercraft used or
8 capable of being used as a means of transportation on water,
9 including power boats, ships, tugs, cruise boats, small craft,
10 smaller commercial vessels, sailing vessels, barges, scows,
11 lighters, ferry boats, pleasure craft, floating equipment, house
12 boats, floating gear, and any and all other watercraft."

13 SECTION 20. Section 266-1.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[+]§266-1.5[+] Port of Honolulu [~~harbor~~] Piers 1 and 2;
16 jurisdiction. Any law to the contrary notwithstanding, the
17 department [~~of transportation~~] shall have jurisdiction and
18 administrative authority over the port of Honolulu [~~harbor~~]
19 Piers 1 and 2 and the contiguous backup fast lands currently
20 used for manifested cargo and passenger operations. This area
21 is defined as all of lot 3 and parcels A and B of the Forrest
22 Avenue subdivision, as shown on the map filed with the bureau of

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1 conveyances of the State of Hawaii, as file plan 2335, and lot
2 A-2, as shown on map 2, filed in the office of the assistant
3 registrar of the land court of the State of Hawaii with land
4 court application 1328; provided that all existing easements
5 affecting and appurtenant to the parcels to be deleted from the
6 Kakaako community development district boundaries shall not be
7 affected by this change."

8 SECTION 21. Section 266-1.6, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~f~~] **§266-1.6** [~~f~~ ~~Hana~~] Hāna harbor; jurisdiction.

11 Notwithstanding any law to the contrary, the department [~~of~~
12 ~~transportation~~] shall have jurisdiction and administrative
13 authority over [~~Hana~~] Hāna harbor, excluding its small boat ramp
14 facility. The [~~Hana~~] Hāna harbor small boat ramp facility shall
15 remain under the jurisdiction and administrative authority of
16 the department of land and natural resources."

17 SECTION 22. Section 266-2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§266-2 Powers and duties of department.** (a) The
20 department [~~of transportation~~] shall:

21 (1) Have and exercise all the powers and shall perform all
22 the duties [~~which~~] that may lawfully be exercised by

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or under the State relative to the control and management of commercial [~~harbors,~~] ports, commercial [~~harbor~~] port, harbor, and other waterfront improvements, [~~ports,~~] harbors, roadsteads, docks, wharves, piers, quays, bulkheads, and landings belonging to or controlled by the State, and the shipping using the same;

(2) Have the authority to use and permit and regulate the use of the commercial docks, wharves, piers, quays, bulkheads, and landings belonging to or controlled by the State for receiving or discharging passengers and for loading and landing merchandise, with a right to collect wharfage and demurrage thereon or therefor;

(3) Subject to all applicable provisions of law, have the power to fix and regulate from time to time rates and charges for:

(A) Services rendered in mooring commercial vessels;

(B) The use of commercial moorings belonging to or controlled by the State;

(C) Wharfage or demurrage;

(D) Warehouse space, office space, and storage space for freight, goods, wares and merchandise; and

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(E) The use of derricks or other equipment belonging to the State or under the control of the department;

(4) Make other charges including toll or tonnage charges on freight passing over or across docks, wharves, piers, quays, bulkheads, or landings;

(5) Appoint and remove clerks, ~~[harbor]~~ commercial port agents and their assistants, and all such other employees as may be necessary, and to fix their compensation;

(6) Adopt rules pursuant to chapter 91 and not inconsistent with law; and

(7) Generally have all powers necessary to fully carry out this chapter.

(b) Notwithstanding any law or provision to the contrary, the department ~~[of transportation is authorized to]~~ may plan, construct, operate, and maintain any commercial ~~[harbor facility]~~ port in the State, including, but not limited to, the acquisition and use of lands necessary to stockpile dredged spoils, without the approval of county agencies.

All moneys appropriated for commercial port, harbor, or other waterfront improvements, including new construction,

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1 reconstruction, repairs, salaries, and operating expenses, shall
2 be expended under the supervision and control of the department,
3 subject to this chapter and chapter 103D.

4 All contracts and agreements authorized by law to be
5 entered into by the department shall be executed on its behalf
6 by the director of transportation.

7 (c) The department shall prepare and submit annually to
8 the governor a report of its official acts during the preceding
9 fiscal year, together with its recommendations as to commercial
10 port, harbor, or other waterfront improvements throughout the
11 State."

12 SECTION 23. Section 266-2.2, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[~~4~~] §266-2.2 [~~4~~] **Exemption from conservation district**
15 **permitting and site plan approval requirements.** Notwithstanding
16 any law to the contrary, all work involving submerged lands used
17 for [~~state~~] commercial [~~harbor~~] port purposes shall be exempt
18 from any permitting and site plan approval requirements
19 established for lands in a conservation district."

20 SECTION 24. Section 266-2.5, Hawaii Revised Statutes, is
21 amended to read as follows:

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"[f] §266-2.5 [f] Outdoor lighting. To the extent that it is practical and not in conflict with any safety regulation or federal law, regulation, or mandate, if any [harbor] commercial port rule or standard relating to outdoor lighting at any [harbor-facility] commercial port conflicts with any county ordinance or other rule regarding outdoor lighting, the more stringent requirement or standard shall govern all new installations of outdoor lighting."

SECTION 25. Section 266-3, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"§266-3 Rules. (a) The director of transportation may adopt rules as necessary:

- (1) To regulate the manner in which all vessels may enter and moor, anchor, or dock in the commercial ports, harbors, [~~ports~~], and roadsteads of the State, or move from one dock, wharf, pier, quay, bulkhead, landing, anchorage, or mooring to another within the commercial ports, harbors, [~~ports~~], and roadsteads;
- (2) For the examination, guidance, and control of harbor masters and their assistants and their conduct while on duty;
- (3) For the embarking or disembarking of passengers;

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- 1 (4) For the expeditious and careful handling of freight,
2 goods, wares, and merchandise of every kind that may
3 be delivered for shipment or discharged on the
4 commercial docks, wharves, piers, quays, bulkheads, or
5 landings belonging to or controlled by the State; and
6 (5) To define the duties and powers of carriers, shippers,
7 and consignees respecting passengers, freight, goods,
8 wares, and merchandise in and upon the docks, wharves,
9 piers, quays, bulkheads, or landings within the
10 commercial ports, harbors, [~~ports~~] and roadsteads of
11 the State. The director may also make further rules
12 for the safety of the docks, wharves, piers, quays,
13 bulkheads, and landings on, in, near, or affecting a
14 commercial [~~harbor~~] port, harbor, and other waterfront
15 improvements belonging to or controlled by the State.
16 (b) The director may also adopt, amend, and repeal such
17 rules as are necessary:
18 (1) For the proper regulation and control of all shipping,
19 traffic, and other related activities in the
20 commercial ports, harbors, or roadsteads belonging to
21 or controlled by the State; of the entry, departure,
22 mooring, and berthing of vessels therein; and of all

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1 other matters and things connected with such
2 activities;

3 (2) To establish safety measures and security requirements
4 in or about the commercial [~~harbors,~~] ports, land, and
5 facilities belonging to or controlled by the State;

6 (3) To prevent the discharge or throwing into commercial
7 ports, harbors, or roadsteads of rubbish, refuse,
8 garbage, or other substances likely to affect water
9 quality or that contribute to making [~~such~~] commercial
10 ports, harbors, or roadsteads unsightly, unhealthful,
11 or unclean, or that are liable to fill up shoal or
12 shallow waters in, near, or affecting the commercial
13 ports, harbors[+], or roadsteads; and

14 (4) To prevent the escape of fuel or other oils or
15 substances into the waters in, near, or affecting
16 commercial ports, harbors, or roadsteads from any
17 source point, including, but not limited to, any
18 vessel or pipes or storage tanks upon the land."

19 SECTION 26. Section 266-4, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "§266-4 **Limitation of powers.** The jurisdiction and powers
22 conferred on the department [~~of transportation~~] are subject to

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1 such restrictions as may be imposed by the statutes of the
2 State[7] and shall be exercised in accordance with the
3 provisions thereof."

4 SECTION 27. Section 266-4.5, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~4~~] **§266-4.5 Disposition of public land; reservation of**
7 **right of way.** [~~4~~] Whenever any disposition of public land is
8 made by the department [~~of transportation~~], under its powers
9 relating to public lands under its jurisdiction, to any persons,
10 organizations, associations, corporations or clubs for
11 recreational or social purposes, such leases, licenses, permits
12 or right-of-entry, or any extensions thereof, covering the
13 disposition of public lands shall contain provisions reserving
14 adequate public right of way or public access to adjacent public
15 areas over and across the public land disposed."

16 SECTION 28. Section 266-6, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§266-6 Expenditures.** Expenditures by the department [~~of~~
19 ~~transportation~~] shall be made upon vouchers signed by the
20 director of transportation; provided that the director, may, in
21 writing, designate a qualified subordinate to sign vouchers,
22 make routine reports, and perform other routine business duties,

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1 subject to the direction of the director, for whose acts the
2 director shall be responsible.

3 The department may cause work to be performed by day labor
4 or by contract or by any other method deemed by the department
5 to be most advantageous to the State."

6 SECTION 29. Section 266-7, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "\$266-7 Department; duties. The department [~~of~~
9 ~~transportation~~] shall collect all moneys, fees, and dues paid to
10 the State for wharfage, demurrage, and all other fees or
11 compensation in respect to the entry, anchorage, and wharfage of
12 all vessels and other craft entering into the commercial ports
13 of the State[~~7~~] and shall account for the same to the State as
14 hereinafter provided. The department shall keep a full and
15 complete record of the official acts of the department."

16 SECTION 30. Section 266-13, Hawaii Revised Statutes, is
17 amended by amending subsections (a) and (b) to read as follows:

18 "(a) All watercraft:

19 (1) Lying idle alongside any wharf, pier, bulkhead, quay,
20 or landing belonging to or controlled by the State; or

21 (2) Discharging or receiving freight or passengers on or
22 from any wharf, pier, bulkhead, quay, or landing

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1 belonging to or controlled by the State, while made
2 fast or lying alongside of the wharf, pier, bulkhead,
3 quay, or landing;
4 shall pay to the department [~~of transportation~~] such rates of
5 dockage as shall be fixed by the department.

6 (b) All watercraft that receive or discharge freight or
7 passengers:

8 (1) From or upon any wharf, pier, bulkhead, quay, or
9 landing, by means of boats, lighters, or otherwise,
10 while lying at anchor or under steam in any bay,
11 harbor, commercial port, or roadstead[+] belonging to
12 or controlled by the State; or

13 (2) While lying in any slip or dock belonging to or
14 controlled by the State, but not made fast to or lying
15 alongside any wharf, pier, bulkhead, quay, or landing;
16 shall pay to the department such rates of dockage as shall be
17 fixed by the department."

18 SECTION 31. Section 266-14, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§266-14 Demurrage, lien, foreclosure.** When any freight
21 has remained upon any wharf, pier, bulkhead, quay, or landing
22 for more than twenty-four hours, the department [~~of~~

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1 ~~transportation]~~, in its discretion, may make demurrage charges
2 for each subsequent day or part thereof that in its opinion are
3 just and equitable.

4 The amount payable by any shipper or consignee for
5 demurrage or other charges in respect of any freight shall be a
6 lien on the freight, and the department may take and hold
7 possession of any freight to secure the payment of the amount,
8 and for the purpose of the lien, shall be deemed to have
9 possession of the freight until the amount has been paid. If
10 the charges due on freight are not paid within thirty days after
11 being landed, the department may sell the freight at public
12 auction and out of the proceeds retain the charges accrued,
13 including the costs of public notice and sale, which latter
14 shall be prorated upon the articles or lots sold in proportion
15 to the amount received for each article or lot. Before any sale
16 is made, the department shall give public notice of the time and
17 place of sale at least once each week for three successive weeks
18 in the county in which the place is located to which the freight
19 is consigned or addressed[7] or by posting this notice at the
20 courthouses of the district in which the place is located to
21 which the freight is consigned or addressed. The notice shall
22 contain a description of the property as near as may be, the

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1 name of the owner or consignee if known, and the amount of
2 charges due thereon, together with the time and place of sale.
3 Any freight in its nature perishable may be sold by the
4 department either at public or private sale as soon as its
5 condition makes a sale necessary.

6 The surplus, if any, received from the sale, after paying
7 any accrued freight charges on the freight, shall be paid to the
8 owner or consignee, if known, and if not known, shall be
9 deposited in the state treasury as a special fund. The fund
10 shall consist of the surplus received from sales made under this
11 section. At any time within one year thereafter, upon written
12 demand and proof of identity satisfactory to the director, the
13 director of finance shall pay the owner thereof the surplus. If
14 this surplus is not claimed by the owner within one year after
15 the date of sale, it shall thereupon escheat to the State[7] and
16 be transferred to the general fund of the State."

17 SECTION 32. Section 266-17, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§266-17 Rates, how fixed. (a) The department [~~of~~
20 ~~transportation~~] shall adjust, fix, and enforce the rates
21 assessable and chargeable by it in respect to dockage, wharfage,
22 demurrage, and other rates and fees pertaining to harbors,

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1 commercial ports, wharves, and properties managed and operated
2 by it so as to produce from the rates and fees, in respect to
3 all harbors, commercial ports, wharves, and other properties,
4 except those that are principally used for recreation or the
5 landing of fish, revenues sufficient to:

6 (1) Pay when due the principal of and interest on all
7 bonds and other obligations for the payment of which
8 the revenue is or has been pledged, charged, or
9 otherwise encumbered, or ~~[which]~~ that are otherwise
10 payable from the revenue or from a special fund
11 maintained or to be maintained from the revenue,
12 including reserves therefor, and to maintain the
13 special fund in an amount at least sufficient to pay
14 when due all bonds or other revenue obligations and
15 interest thereon~~[, which]~~ that are payable from the
16 special fund, including reserves therefor;

17 (2) Provide for all expenses of operation and maintenance
18 of the properties, including reserves therefor, and
19 the expenses of the department in connection with
20 operation and maintenance; and

21 (3) Reimburse the general fund of the State for all bond
22 requirements for general obligation bonds ~~[which]~~ that

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1 are or have been issued for harbor or [~~wharf~~]
2 commercial port improvements, or to refund any of the
3 improvement bonds, excluding bonds, the proceeds of
4 which were or are to be expended for improvements
5 [~~which~~] that are or will be neither revenue producing
6 nor connected in their use directly with revenue
7 producing properties.

8 (b) When weather, road closures due to special events, or
9 road repairs do not permit the loading or unloading of
10 passengers at Kewalo Basin, cruise boats holding a Kewalo Basin
11 sublease approved by the State shall be allowed to use the port
12 of Honolulu [~~Harbor~~] facilities on a space available basis, and
13 the fees for the use of facilities shall be in accordance with
14 the [~~Hawaii administrative~~] rules of the department [~~of~~
15 ~~transportation~~] relating to fees for use of facilities for
16 private gain."

17 SECTION 33. Section 266-19, Hawaii Revised Statutes, is
18 amended by amending its title and subsections (a) and (b) to
19 read as follows:

20 "§266-19 Creation of [~~harbor~~] commercial port special
21 fund; disposition of [~~harbor~~] commercial port special fund. (a)
22 There is created in the treasury of the State the [~~harbor~~]

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1 commercial port special fund. All moneys received by the
2 department [~~of transportation~~] from the rates, fees, fines, and
3 administrative penalties pursuant to sections 266-17(a)(1), 266-
4 25, 266-28, and 266-30 shall be paid into the [~~harbor~~]
5 commercial port special fund. The [~~harbor~~] commercial port
6 special fund and the second separate [~~harbor~~] commercial port
7 special fund heretofore created shall be consolidated into the
8 [~~harbor~~] commercial port special fund at such time as there are
9 no longer any revenue bonds payable from the second separate
10 [~~harbor~~] commercial port special fund. The harbor reserve fund
11 heretofore created is abolished.

12 All moneys derived pursuant to this chapter from harbor or
13 commercial port properties of the [~~statewide system of harbors~~]
14 commercial ports system of the State shall be paid into the
15 [~~harbor~~] commercial port special fund and each fiscal year shall
16 be appropriated, applied, or expended by the department [~~of~~
17 ~~transportation~~] for the [~~statewide system of harbors~~] commercial
18 ports system of the State for any purpose within the
19 jurisdiction, powers, duties, and functions of the department
20 [~~of transportation~~] related to the [~~statewide system of~~
21 ~~harbors,~~] commercial ports system of the State, including,
22 without limitation, the costs of operation, maintenance, and

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1 repair of the [~~statewide system of harbors~~] commercial ports
2 system of the State and reserves therefor, and acquisitions
3 (including real property and interests therein), constructions,
4 additions, expansions, improvements, renewals, replacements,
5 reconstruction, engineering, investigation, and planning, for
6 the [~~statewide system of harbors,~~] commercial ports system of
7 the State, all or any of which in the judgment of the department
8 [~~of transportation~~] are necessary to the performance of its
9 duties or functions.

10 (b) At any time the director of transportation may
11 transfer from the [~~harbor~~] commercial port special fund created
12 by subsection (a) all or any portion of available moneys on
13 deposit in the [~~harbor~~] commercial port special fund that is
14 determined by the director of transportation to be in excess of
15 one hundred fifty per cent of the requirements for the ensuing
16 twelve months for the [~~harbor~~] commercial port special fund, as
17 permitted by and in accordance with section 37-53. For purposes
18 of this determination, the director of transportation shall take
19 into consideration the amount of federal funds and bond funds on
20 deposit in, and budgeted to be expended from, the [~~harbor~~]
21 commercial port special fund during the ensuing twelve months;
22 amounts on deposit in the [~~harbor~~] commercial port special fund

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that are encumbered or otherwise obligated; budgeted amounts payable from the ~~[harbor]~~ commercial port special fund during the ensuing twelve months; revenues anticipated to be received by and expenditures to be made from the ~~[harbor]~~ commercial port special fund during the ensuing twelve months based on existing agreements and other information for that period; and any other factors as the director of transportation shall deem appropriate."

SECTION 34. Section 266-19.5, Hawaii Revised Statutes, is amended as follows:

1. By amending its title and subsection (a) to read:

"§266-19.5 Private financing of harbor or commercial port improvements. (a) Notwithstanding any law to the contrary, the department ~~[of transportation]~~ may enter into a capital advancement contract with a private party for any public improvement to or construction of a ~~[state]~~ harbor, commercial ~~[harbor,]~~ port, roadstead, or other waterfront improvement belonging to or controlled by the State, if the director of transportation determines that a capital advancement contract promotes the best interest of the State by finding that:

- (1) Private development is likely to be less costly than any other type of contract;

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- 1 (2) Private development provides needed public
2 improvements on a significantly more timely basis; or
3 (3) Public financing for the public improvements is not
4 available on a timely basis."

5 2. By amending subsections (c) to (e) to read:

6 "(c) A capital advancement contract under subsection (a)
7 shall be subject to the requirements of chapters 103 and 103D
8 and be subject to the approval of the department [~~of~~
9 ~~transportation~~]; provided that all related transactions shall be
10 subject to state audit.

11 (d) The department [~~of transportation~~] may execute capital
12 advancement contracts pursuant to subsection (a) with a total
13 contract value of \$5,000,000 or less without legislative
14 approval. If the total value of a capital advancement contract
15 pursuant to subsection (a) is greater than \$5,000,000 then the
16 department [~~of transportation~~] shall obtain legislative approval
17 in the form of the adoption of a concurrent resolution affirming
18 the purpose, project, and contract issuance before executing the
19 capital advancement contract. The total aggregate value of all
20 capital advancement contracts entered into by the department
21 pursuant to this section shall not exceed \$30,000,000 in any
22 fiscal year. The department shall submit a report to the

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1 legislature of all executed capital advancement contracts for
2 the previous twelve-month period from July 1 to June 30 no later
3 than twenty days prior to the convening of each regular session.

4 (e) For the purposes of this section:

5 "Capital advancement contract" means an agreement between
6 the department [~~of transportation~~] and a private party whereby
7 the private party agrees to furnish capital, labor, or materials
8 for a public improvement to or construction of a [~~state~~] harbor,
9 commercial [~~harbor,~~] port, roadstead, or other waterfront
10 improvement belonging to or controlled by the State and in
11 return for which the private party may be reimbursed in a manner
12 to be determined by the department.

13 "Total value" includes any contract extension, project
14 redesign, add-ons, or any other occurrence, act, or material
15 cost that may increase the cost of the contracted project."

16 SECTION 35. Section 266-21.4, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) The department shall:

19 (1) Develop a list of minimum requirements for the marine
20 inspection of vessels seeking permits to moor in state
21 commercial [~~harbors,~~] ports;

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- 1 (2) Approve qualified marine surveyors to inspect vessels
2 seeking permits to moor in state commercial [~~harbors,~~
3 ports; and
4 (3) Approve a fee schedule for marine surveyors'
5 inspections."

6 SECTION 36. Section 266-21.5, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) The department [~~of transportation~~] shall provide
9 space at commercial [~~harbors~~] ports for biosecurity and
10 inspection facilities and to facilitate the safe and efficient
11 movement of maritime cargo through the commercial [~~harbors-~~
12 ports."

13 SECTION 37. Section 266-23, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§266-23 Acceptance of gifts.** The director of
16 transportation may, with the approval of the governor, accept
17 and receive gifts of personal property, which gifts shall be
18 used for harbor or commercial port purposes; provided that
19 moneys received by the director, pursuant to the authority
20 granted herein, shall be deposited into an appropriate fund or
21 account before being used for harbor or commercial port
22 purposes."

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SECTION 38. Section 266-24, Hawaii Revised Statutes, is amended to read as follows:

"§266-24 Enforcement. (a) Every state and county officer charged with the enforcement of any law, statute, rule, regulation, ordinance, or order, shall enforce and assist in the enforcement of this chapter and of all rules and orders issued pursuant thereto, and in carrying out the responsibilities hereunder, each shall be specifically authorized to:

(1) Conduct any enforcement action hereunder in any commercial ~~[harbor]~~ port area and any area over which the department ~~[of transportation]~~ and the director of transportation has jurisdiction under this chapter;

(2) Inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where ~~[harbors or harbor facilities are]~~ a harbor or commercial port is situated, or where harbor-related or commercial port-related activities are operated or conducted; and

(3) Serve notices and orders.

(b) The department ~~[of transportation]~~, in the name of the State, may enforce this chapter and the rules and orders issued

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1 pursuant thereto by injunction or other legal process in the
2 courts of the State."

3 SECTION 39. Section 266-24.1, Hawaii Revised Statutes, is
4 amended by amending subsection (e) to read as follows:

5 "(e) When a complaint is made to any prosecuting officer
6 of the violation of any provision of this part, including any
7 rule adopted thereunder, the enforcement officer who issued the
8 summons or citation shall subscribe to it under oath
9 administered by another official of the department [~~of~~
10 ~~transportation~~] whose name has been submitted to the prosecuting
11 officer and who has been designated by the director of
12 transportation to administer the oath."

13 SECTION 40. Section 266-24.2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[~~+~~] §266-24.2 [~~+~~] **Vessels or property taken into legal**
16 **custody; unauthorized control.** No person shall exercise control
17 over a vessel or other property that is under legal custody,
18 seizure, or detention by the department [~~of transportation~~],
19 with intent to defeat the custody, seizure, or detention, or
20 impede, oppose, or defeat the process whereby the vessel or
21 other property is under custody, seizure, or detention."

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SECTION 41. Section 266-25, Hawaii Revised Statutes, is amended to read as follows:

"§266-25 Violation of rules; penalty. (a) In addition to the reimbursement of fines and costs as provided in section 266-28, any person who violates any rule made, adopted, and published by the department [~~of transportation~~] as herein provided, or who violates any lawful command of any harbor master, [~~harbor~~] commercial port agent, facility security officer, or [~~harbor~~] commercial port district manager, while in the discharge of the person's duty, or who violates this chapter, except as provided in subsections (b) and (c), shall be fined not more than \$1,000 or less than \$50 for each violation, and any vessel, the agents, owner, or crew of which violate the rules of the department or this part, shall be fined not more than \$1,000 or less than \$50 for each violation; provided that in addition to or as a condition to the suspension of the fines and penalties, a court, the department, or an administrative hearings officer may deprive the offender of the privilege of entering the secured area of the port or obtaining an operating or mooring permit for any vessel in state waters for a period of not more [~~+~~]than[~~+~~] one year; provided further that the offender, at the resumption of the privilege of operating or

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1 mooring a vessel in state waters, shall assume the last position
2 on any waiting list.

3 (b) Any person who violates any rule adopted by the
4 department [~~of transportation~~] under this part regulating
5 vehicular parking or traffic movement shall have committed a
6 traffic infraction as set forth in chapter 291D, the
7 adjudication of which shall be subject to the provisions
8 contained therein. A person found to have committed such a
9 traffic infraction shall be fined not more than:

- 10 (1) \$100 for a first violation;
11 (2) \$200 for a second violation; and
12 (3) \$500 for a third or subsequent violation.

13 (c) Any person who violates any rule adopted by the
14 department [~~of transportation~~] relating to unauthorized
15 discharge, dumping, or abandoning any petroleum product,
16 hazardous material, or sewage in any [~~state~~] harbor [~~facility~~],
17 commercial port, or state waters in violation of the state water
18 quality standards established by the department of health, shall
19 be fined not more than \$10,000 for each day of violation, and
20 any vessel, the agents, owner, or crew of which violate the
21 rules of the department of transportation or this chapter, shall
22 be fined not more than \$10,000 for each day of violation;

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1 provided that in addition to or as a condition to the suspension
2 of the fines and penalties, the court, department, or
3 administrative [+]hearings[+] officer may deprive the offender
4 of the privilege of entering the secured area of the port or
5 obtaining an operating or mooring permit for any vessel in state
6 waters for a period of not more than one year; provided further
7 that the offender, at the resumption of the privilege of
8 operating or mooring a vessel in state waters, shall assume the
9 last position on any waiting list."

10 SECTION 42. Section 266-27, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By amending its title and subsection (a) to read:

13 "\$266-27 Mooring of unauthorized vessel in [state
14 ~~harbors;]~~ commercial ports; impoundment and disposal
15 proceedings. (a) No person shall moor a vessel in a [state]
16 commercial [~~harbor~~] port without obtaining a use permit; nor
17 shall a person continue to moor a vessel in any [state]
18 commercial [~~harbor~~] port if the use permit authorizing the
19 vessel to moor has expired or otherwise been terminated. A
20 vessel moored without a use permit or with a use permit that has
21 expired or been terminated is an unauthorized vessel and [is]
22 shall be subject to subsections (b) to (e)."

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

2 "(c) An unauthorized vessel may be impounded by the
3 department at the sole cost and risk of the owner of the vessel,
4 if such a vessel is not removed after the seventy-two-hour
5 period or if during said period the vessel is removed and re-
6 moored in said [~~harbor~~] commercial port or any other state
7 commercial [~~harbor~~] port without a use permit."

8 SECTION 43. Section 266-28, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§266-28 Fines arising from environmental protection and**
11 **maritime transportation security violations.** Notwithstanding
12 any other law to the contrary, any commercial [~~harbor~~] port
13 tenant or user, including any shipper or shipping agent, who
14 violates any federal, state, or county law or rule relating to
15 environmental protection or maritime transportation security
16 pursuant to title 33 Code of Federal Regulations chapter 1 and
17 thereby causes a fine to be levied by the United States Coast
18 Guard upon the department, shall reimburse the department for
19 the entire amount of the fine. The department may take [~~such~~]
20 the actions necessary to collect and deposit any amount
21 reimbursable under this section into the [~~harbor~~] commercial
22 port special fund[7] and may also demand reimbursement for costs

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1 or expenses incurred by the department resulting from
2 enforcement of this section."

3 SECTION 44. Section 266-29, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~+~~] §266-29 [~~+~~] State [~~harbors~~] commercial ports civil
6 violations system; authorization. (a) There is established,
7 within the department [~~of transportation~~], a [~~state harbors~~]
8 commercial ports civil violations system, [~~whose~~] which purpose
9 shall be to process violations of departmental regulations for
10 which administrative penalties have been authorized by law or
11 rules adopted thereunder.

12 (b) The department [~~of transportation~~] shall adopt, amend,
13 and repeal rules, subject to chapter 91, for the purposes of
14 this section.

15 (c) Rules adopted pursuant to subsection (b) may include,
16 but are not limited to, the following:

17 (1) Requirements for notice of [~~state harbors~~] commercial
18 ports infraction;

19 (2) A form of the answer that shall be made pursuant to a
20 notice of [~~state harbors~~] commercial ports infraction,
21 which answer may be an admission of the infraction, a

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denial of the infraction, or an admission of the
infraction with mitigating circumstances;

(3) The action to be taken after an answer is received or
when a person fails to answer the notice of [~~state~~
~~harbors~~] commercial ports infraction;

(4) Procedures for administrative hearings under this
section;

(5) The imposition and enforcement of monetary assessments
made pursuant to this section; and

(6) Means of assuring that the alleged violator who
answers the notice of [~~state harbors~~] commercial ports
infraction by an admission of the infraction or an
admission of the infraction with mitigating
circumstances has knowingly and voluntarily elected to
use the [~~state harbors~~] commercial ports civil
violations system and waive the appeal provided for in
section 91-14.

(d) Notwithstanding any other provision of law to the
contrary, all [~~state harbors~~] commercial ports infractions that
the department [~~of transportation~~] identifies as subject to
administrative penalties may be adjudicated pursuant to this
section."

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SECTION 45. Section 266-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as otherwise provided by law, the department [~~of transportation~~] may set, charge, and collect administrative fines or bring legal action to recover administrative fees and costs as documented by receipts or affidavit, including attorneys' fees and costs; or bring legal action to recover administrative fines, fees, and costs, including attorneys' fees and costs, or payment for damages resulting from a violation of this chapter or any rule adopted pursuant to this chapter. The administrative fines shall not exceed \$10,000 for each day of violation."

SECTION 46. Section 266-31, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~266-31[~~]~~] **Restriction of use of facilities.** The department [~~of transportation~~] may delay or deny approval for port entry or departure for any vessel for which the department has received notice from a federal agency or other agency that the vessel or its crew has engaged in activity that has violated any federal, state, or county law or rule pertaining to environmental protection, maritime transportation, trafficking of illegal contraband, or the collection or extraction of

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1 undersea minerals unlicensed or unpermitted by the State;
2 provided that the department may grant approvals for use of any
3 commercial [~~harbor facility~~] port by that vessel in coordination
4 with the federal agency or other agency."

5 SECTION 47. Section 266-53, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§266-53 Findings and determination for special facility**
8 **leases.** The department shall not enter into any special
9 facility lease unless the department shall first find and
10 determine that:

11 (1) The special facility [~~which~~] that is to be the subject
12 of [~~such~~] the special facility lease will not be used
13 to provide services, commodities, supplies, or
14 facilities [~~which~~] that are then adequately being made
15 available through the [~~harbors~~] commercial ports
16 system of the State;

17 (2) The use or occupancy of the special facility under
18 [~~such~~] the special facility lease would not result in
19 the reduction of the revenues derived from the
20 [~~harbors~~] commercial ports system of the State to an
21 amount below the amount required to be derived
22 therefrom by section 39-61; and

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(3) The entering into of ~~[such]~~ the special facility lease would not be in violation of or result in a breach of any covenant contained in any resolution or certificate authorizing any bonds of the State and the department then outstanding."

SECTION 48. Section 266-54, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Any moneys derived by the department pursuant to subsection (a)(1) shall be deemed revenues of the special facility. Any moneys received by the department pursuant to subsection (a)(2) and (3) shall be paid into the ~~[harbor]~~ commercial port special fund and shall not be nor be deemed to be revenues of the special facility."

SECTION 49. Section 266-55, Hawaii Revised Statutes, is amended to read as follows:

"§266-55 Special facility revenue bonds. All special facility revenue bonds, including special facility revenue refunding bonds, authorized to be issued shall be issued pursuant to part III of chapter 39, except as follows:

(1) No special facility revenue bonds shall be issued unless at the time of issuance the department shall have entered into a special facility lease with

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1 respect to the special facility for which the revenue
2 bonds are to be issued;

3 (2) Special facility revenue bonds shall be issued in the
4 name of the department, and not in the name of the
5 State;

6 (3) No further authorization of the legislature shall be
7 required for the issuance of the special facility
8 revenue bonds, but the approval of the governor shall
9 be required for the issuance;

10 (4) Special facility revenue bonds shall be payable solely
11 from and secured solely by the revenues derived by the
12 department from the special facility for which they
13 are issued, as defined in section 266-51;

14 (5) The final maturity date of the special facility
15 revenue bonds shall not be later than either the
16 estimated life of the special facility for which they
17 are issued or the initial term of the special facility
18 lease;

19 (6) If deemed necessary or advisable by the department, or
20 to permit the obligations of the other person to the
21 special facility lease to be registered under the
22 United States Securities Act of 1933, the department

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1 with the approval of the state director of finance may
2 appoint a national or state bank within or without the
3 State to serve as trustee for the holders of the
4 special facility revenue bonds and may enter into a
5 trust indenture or trust agreement with the trustee.
6 The trustee may be authorized by the department to
7 collect, hold, and administer the revenues derived
8 from the special facility for which the special
9 facility revenue bonds are issued and to apply the
10 revenues to the payment of the principal and interest
11 on the special facility revenue bonds. If any trustee
12 shall be appointed, any trust indenture or agreement
13 entered into by the department with the trustee may
14 contain the covenants and provisions authorized by
15 part III of chapter 39 to be inserted in a resolution
16 adopted or certificate issued, as though the words
17 "resolution" or "certificate" as used in that part
18 read "trust indenture or agreement". Those covenants
19 and provisions shall not be required to be included in
20 the resolution or certificate authorizing the issuance
21 of the special facility revenue bonds if included in
22 the trust indenture or agreement. Any resolution or

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1 certificate, trust indenture, or trust agreement
2 adopted, issued, or entered into by the department
3 pursuant to this part may also contain any provisions
4 required for the qualification thereof under the
5 United States Trust Indenture Act of 1939. The
6 department may pledge and assign to the trustee the
7 special facility lease and the rights of the
8 department including the revenues thereunder;

9 (7) If the department with the approval of the state
10 director of finance shall have appointed or shall
11 appoint a trustee for the holders of the special
12 facility revenue bonds, then notwithstanding the
13 second sentence of section 39-68, the director of
14 finance may elect not to serve as fiscal agent for the
15 payment of the principal and interest, and for the
16 purchase, registration, transfer, exchange, and
17 redemption, of the special facility revenue bonds, or
18 may elect to limit the functions the director shall
19 perform as fiscal agent. The department, with the
20 approval of the director of finance, may appoint the
21 trustee to serve as fiscal agent and may authorize and
22 empower the trustee to perform any functions with

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1 respect to the payment of the principal and interest
2 and the purchase, registration, transfer, exchange,
3 and redemption of the special facility revenue bonds,
4 as the department may deem necessary, advisable, or
5 expedient, including, without limitation, the holding
6 of the special facility revenue bonds and coupons that
7 have been paid, and the supervision and destruction
8 thereof in accordance with sections 40-10 and 40-11.
9 Nothing in this paragraph shall be a limitation upon
10 or be construed as a limitation upon the powers
11 granted in the preceding paragraph to the department
12 with the approval of the director of finance to
13 appoint the trustee, or granted in sections 36-3 and
14 39-13 and the third sentence of section 39-68 to the
15 director of finance to appoint the trustee or others,
16 as fiscal agents, paying agents, and registrars for
17 the special facility revenue bonds or to authorize and
18 empower fiscal agents, paying agents, and registrars
19 to perform the functions referred to in the preceding
20 paragraph and sections 36-3 and 39-13 and the third
21 sentence of section 39-68, it being the intent of this
22 paragraph to confirm that the director of finance as

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1 aforesaid may elect not to serve as fiscal agent for
2 the special facility revenue bonds or may elect to
3 limit the functions the director shall perform as
4 fiscal agent, as the director of finance may deem
5 necessary, advisable, or expedient;

6 (8) The department may sell special facility revenue bonds
7 either at public or private sale;

8 (9) If no trustee shall be appointed to collect, hold, and
9 administer the revenues derived from the special
10 facility for which the special facility revenue bonds
11 are issued, the revenues shall be held in a separate
12 account in the treasury of the State, separate and
13 apart from the ~~[harbor]~~ commercial port special fund,
14 to be applied solely to the carrying out of the
15 resolution, certificate, trust indenture, or trust
16 agreement authorizing or securing the special facility
17 revenue bonds;

18 (10) If the resolution, certificate, trust indenture, or
19 trust agreement shall provide that no special facility
20 revenue bonds issued thereunder shall be valid or
21 obligatory for any purpose unless certified or
22 authenticated by the trustee for the holders of the

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1 special facility revenue bonds, signatures of the
2 officers of the State upon the bonds and the coupons
3 thereof as required by section 39-56 may be evidenced
4 by their facsimile signatures;

5 (11) The proceeds of special facility revenue bonds may be
6 used and applied by the department to reimburse the
7 other person to the special facility lease for all
8 preliminary costs and expenses, including
9 architectural and legal costs; and

10 (12) If the special facility lease shall require the other
11 person to operate, maintain, and repair the special
12 facility that is the subject of the lease, at the
13 other person's expense, the requirement shall
14 constitute compliance by the department with section
15 39-61(a)(2), and none of the revenues derived by the
16 department from the special facility shall be required
17 to be applied to the purposes of section 39-62(2).
18 Sections 39-62(4), 39-62(5), and 39-62(6) shall not be
19 applicable to the revenues derived from a special
20 facility lease."

21 SECTION 50. Section 266-61, Hawaii Revised Statutes, is
22 amended to read as follows:

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1 "§266-61 Labor subject to collective bargaining; required.

2 (a) Except as provided in subsection (b), in addition to the
3 duties of the department [~~of transportation~~] imposed under part
4 I, the department [~~of transportation~~] shall require that the
5 securing of mooring lines from vessels to commercial docks,
6 wharves, piers, quays, and landings be performed by labor
7 subject to collective bargaining.

8 (b) Subsection (a) shall not apply to:

- 9 (1) Any labor being performed at any shipyard or drydock;
10 by or on behalf of any ship repair or construction
11 company; or involving any activity relating to ship
12 repair, construction and overhaul services, and
13 maritime research and development; and
14 (2) The securing of mooring lines from fishing vessels;
15 government-owned or government-sponsored vessels; tour
16 boats; and training vessels."

17 SECTION 51. Section 279A-2, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) The [~~state~~] department of transportation shall
20 prepare a new statewide transportation plan and shall submit
21 [~~said~~] the plan to the legislature in its 1978 session. The
22 legislature shall adopt the plan by resolution. The plan shall

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1 be directed toward the ultimate development of a balanced,
2 multi-modal statewide transportation system that serves clearly
3 identified social, economic, and environmental objectives. The
4 statewide transportation plan shall include the following system
5 components:

- 6 (1) The national system of interstate and defense
7 highways, and highways within the state highway
8 system;
- 9 (2) Airports;
- 10 (3) Harbors, commercial ports, and water-borne transit;
- 11 (4) Surface mass transit systems; and
- 12 (5) Major county roads.

13 The department of transportation shall pay particular
14 attention to the interfacing of the various modes of
15 transportation."

16 SECTION 52. Section 279A-7, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§279A-7 Statewide transportation council;
19 responsibilities. In addition to its responsibility for
20 coordinating the development of a statewide transportation plan,
21 the council shall be responsible for the following functions:

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(1) The council shall be responsible for making recommendations on projects for submission to the legislature which involve solely and exclusively either state highways, harbors, commercial ports, and water-borne transit, and airports and air transportation; solely and exclusively state funds; or solely state lands. All other projects for submission to the legislature, including intra-county mass transit projects, shall be the responsibility of the counties.

(2) In respect to transportation projects for which the counties are responsible for planning and approval prior to submission to the legislature, the council shall review ~~[such]~~ the projects and prepare comments for the legislature regarding:

(A) The degree to which an intra-island transportation project interfaces efficiently with existing proposed inter-island transportation system; and

(B) The relationship between the specific projects' possible requirements for state financial assistance and projections as to the State's

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1 total potential financial commitments required
2 for development of a statewide transportation
3 system.

4 (3) Counties [~~which~~] that do not have metropolitan
5 planning organizations may request from the council,
6 and the council shall provide, technical assistance to
7 the counties in the preparation of their respective
8 county transportation plans as components of the
9 statewide transportation planning process. The
10 amounts of technical assistance to be provided
11 hereunder are within the discretion of the chairperson
12 who shall consider in making the chairperson's
13 determinations the magnitude of the problems which
14 exist in the requesting counties, the availability of
15 local resources, the degree to which they are
16 cooperatively participating in the statewide planning
17 process and the adequacy of the council's budget
18 considering the financial requirements of overall
19 council operations."

20 SECTION 53. Section 279C-2, Hawaii Revised Statutes, is
21 amended to read as follows:

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1 [+] "§279C-2[+] **Carbon concrete standards.** All department
2 of transportation highway, [~~harbor,~~] commercial port, and
3 airport projects shall conform to the applicable carbon concrete
4 standards contained in division 600 of the highways division of
5 the department of transportation's special provisions for
6 standard specifications dated July 10, 2020. The director of
7 transportation may issue an exemption to carbon concrete
8 standards upon a determination that [~~such~~] the exemption is
9 necessary or when specific projects require that different
10 procedures are mandated under federal law."

11 SECTION 54. Section 291C-27, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) As used in this section, "emergency vehicle" means a
14 police or fire department vehicle, ocean safety vehicle,
15 emergency medical services vehicle, freeway service patrol
16 vehicle, sheriff division vehicle, Hawaii emergency management
17 agency vehicle, county emergency management vehicle, civil
18 defense vehicle, department of transportation [~~harbors~~]
19 commercial ports division vehicle, department of land and
20 natural resources division of conservation and resources
21 enforcement vehicle, or a tow truck."

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SECTION 55. Section 311D-1, Hawaii Revised Statutes, is amended by amending article II to read as follows:

"ARTICLE II

DEFINTIONS

As used in this compact, unless the context clearly requires a different construction:

"Active duty" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 United States Code section 101(d)(1) and section 101(d)(6)(A).

"Appropriate education agency" means a public authority legally constituted by a state as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions.

"Children of military families" means school-aged children, enrolled in kindergarten through twelfth grade, in the households of active duty members.

"Compact" means the interstate compact on educational opportunity for military children.

"Compact commissioner" means the voting representative of each compacting state appointed pursuant to article VIII of this compact.

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1 "Deployment" means the period of three months prior to the
2 service members' departure from their home station on military
3 orders through six months after return to their home station.

4 "Education records" means those official records, files,
5 and data directly related to a student and maintained by the
6 school or appropriate education agency, including records
7 encompassing all the material kept in the student's cumulative
8 folder such as general identifying data, records of attendance
9 and of academic work completed, records of achievement and
10 results of evaluative tests, health data, disciplinary status,
11 test protocols, and individualized education programs.

12 "Extracurricular activities" means a voluntary activity
13 sponsored by the school or appropriate education agency or an
14 organization sanctioned by the appropriate education agency.
15 Extracurricular activities include preparation for and
16 involvement in public performances, contests, athletic
17 competitions, demonstrations, displays, and club activities.

18 "Interstate commission on educational opportunity for
19 military children" or "interstate commission" means the
20 commission that is created under article IX of this compact.

21 "Local education agency" means a public authority legally
22 constituted by a state as an administrative agency to provide

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1 control of and direction for kindergarten through twelfth grade
2 public educational institutions.

3 "Member state" means a state that has enacted this compact.

4 "Military installation" means a base, camp, post, station,
5 yard, center, homeport facility for any ship, or other facility
6 under the jurisdiction of the United States Department of
7 Defense, including any leased facility, which is located within
8 any of the several states, the District of Columbia, the
9 Commonwealth of Puerto Rico, the United States Virgin Islands,
10 Guam, American Samoa, the Northern Marianas Islands, and any
11 other United States territory. The term shall not include any
12 facility used primarily for civil works, rivers, and harbors,
13 and commercial ports projects, or flood control projects.

14 "Non-member state" means a state that has not enacted this
15 compact.

16 "Receiving state" means the state to which a child of a
17 military family is sent, brought, or caused to be sent or
18 brought.

19 "Rule" means a written statement by the interstate
20 commission promulgated pursuant to article XII of this compact
21 that is of general applicability, implements, interprets, or
22 prescribes a policy or provision of the compact, or an

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1 organizational, procedural, or practice requirement of the
2 interstate commission, has the force and effect of statutory law
3 in a member state, and includes the amendment, repeal, or
4 suspension of an existing rule.

5 "Sending state" means the state from which a child of a
6 military family is sent, brought, or caused to be sent or
7 brought.

8 "State" means a state of the United States, the District of
9 Columbia, the Commonwealth of Puerto Rico, the United States
10 Virgin Islands, Guam, American Samoa, the Northern Marianas
11 Islands, and any other United States territory.

12 "Student" means the child of a military family for whom the
13 local education agency receives public funding and who is
14 formally enrolled in kindergarten through twelfth grade.

15 "Student financial obligation" means any unpaid or
16 outstanding fines or fees.

17 "Transition" means the formal and physical process of
18 transferring from school to school, or the period of time in
19 which a student moves from one school in the sending state to
20 another school in the receiving state.

21 "Uniformed service" means the Army, Navy, Air Force, Marine
22 Corps, Coast Guard as well as the Commissioned Corps of the

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1 National Oceanic and Atmospheric Administration, and Public
2 Health Services.

3 "Veteran" means a person who served in the uniformed
4 services and who was discharged or released therefrom under
5 honorable conditions."

6 SECTION 56. Section 386-181, Hawaii Revised Statutes, is
7 amended by amending subsections (a) and (b) to read as follows:

8 "(a) As used in this section:

9 "Police chaplain" means a member of an authorized
10 chaplaincy program of a county police department who performs
11 services in a voluntary and unpaid capacity under the authorized
12 direction of an officer of the department.

13 "Public board" means a governmental body, regardless of its
14 designation, duly created under authority vested by law for the
15 purposes of performing quasi-judicial, administrative, or
16 advisory functions.

17 "Reserve police officer" means a member of an authorized
18 reserve force of a county police department who performs
19 services in a voluntary and unpaid capacity under the authorized
20 direction of an officer of the department.

21 "Reserve public safety law enforcement officer" means a
22 member of the authorized volunteer law enforcement force of the

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1 department of law enforcement who performs services in a
2 voluntary and unpaid capacity under the authorized direction of
3 an officer of the department of law enforcement.

4 "Sheriffs' chaplain" means a member of an authorized
5 chaplaincy program of the department of law enforcement who
6 performs functions similar to a police chaplain in a voluntary
7 and unpaid capacity for the sheriff division.

8 "Volunteer boating enforcement officer" means a member of
9 the authorized volunteer enforcement force of the [~~harbors~~]
10 commercial ports division, department of transportation, who
11 performs services in a voluntary and unpaid capacity under the
12 authorized direction of an officer of the department.

13 "Volunteer conservation and resources enforcement officer"
14 means a member of the authorized volunteer enforcement force of
15 the division of conservation and resources enforcement,
16 department of land and natural resources, who performs services
17 in a voluntary and unpaid capacity under the authorized
18 direction of an officer of the department.

19 "Volunteer firefighter" means a person who performs
20 services for a county fire department in a voluntary and unpaid
21 capacity under the authorized direction of an officer of the
22 department.

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1 (b) If a member of a public board, a reserve police
2 officer, a police chaplain, a reserve public safety law
3 enforcement officer, sheriffs' chaplain, a volunteer
4 firefighter, a volunteer boating enforcement officer, or a
5 volunteer conservation and resources enforcement officer is
6 injured while performing services for the board, county police
7 department, county fire department, department of law
8 enforcement, [~~harbors~~] commercial ports division of the
9 department of transportation, or division of conservation and
10 resources enforcement of the department of land and natural
11 resources, under the conditions specified in section 386-3, the
12 person or the person's dependents shall be entitled to all
13 compensation in the manner provided by this chapter and, for the
14 purposes of this chapter, the person shall, in every case, be
15 deemed to have earned wages for the services."

16 SECTION 57. Section 462A-3, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§462A-3 Powers and duties of the director. In addition
19 to any other powers and duties authorized by law, the director
20 shall:

- 21 (1) Grant licenses to port pilots and deputy port pilots
22 pursuant to this chapter, when the need arises;

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- (2) Adopt, amend, or repeal rules in accordance with chapter 91 as may be necessary to carry out the purposes of this chapter which are to provide for maximum efficiency in navigating vessels entering or leaving the waters of this State; maintain a pilotage system devoted to the preservation, and protection of lives, property, and vessels entering or leaving waters of the State; and ensure an adequate supply of qualified pilots in aid of commerce and navigation;
- (3) Develop appropriate standards for licensure and renewal of licensure to maintain an adequate supply of pilots based on the needs of users of pilotage services or the department of transportation's ~~[harbors]~~ commercial ports division. Licensing requirements shall include examinations and investigations to determine whether persons applying for full port pilot, or deputy port pilot licenses are qualified;
- (4) Enforce this chapter and rules adopted pursuant thereto;

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(5) Suspend, revoke or deny the issuance of any license for any cause prescribed by this chapter, or for any violation of the rules;

(6) Investigate any person for violations of any provisions of this chapter;

(7) Adopt methods to improve disciplinary and enforcement programs against violations of this chapter; and

(8) Do all things reasonable, necessary, and expedient to insure proper and safe pilotage and to facilitate the efficient administration of this chapter."

SECTION 58. Section 462A-3.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The director, in consultation with users of pilotage services, the department of transportation's [~~harbors~~ commercial ports division, and the professional association of port pilots in the State shall give primary consideration to the public interest in ensuring that there is an adequate supply of qualified pilots to safely and economically meet the requirements of commerce."

SECTION 59. Section 708-814.7, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

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"(3) For the purposes of this section, unless the context requires otherwise:

"Highway" has the same meaning as in section 286-2.

"Improved state land" means any state land, including but not limited to harbors or commercial ports under the care and control of the department of transportation under chapter 266, and small boat harbors under the care and control of the department of land and natural resources under chapter 200, upon which there is improvement, including any structure, building, or facility; or alteration of the land by grading, dredging, or mining that would cause a permanent change in the land or that would change the basic natural condition of the land. Land is not "improved state land" if it only has minor improvements, including utility poles, signage, and irrigation facilities or systems; or minor alterations undertaken for the preservation or prudent management of the unimproved or unused land, including fences, trails, or pathways. Land is not "improved state land" solely due to the performance of state maintenance activities on the land, including forest plantings and the removal of weeds, brush, rocks, boulders, or trees; or removal or securing of rocks or boulders undertaken to reduce risk to downslope properties.

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1 "State lands" means all land owned by the State through any
2 of its departments or agencies."

3 SECTION 60. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 61. This Act shall take effect upon its approval.

6

7

INTRODUCED BY:

Medino K. Pichon

8

BY REQUEST

JAN 26 2026

H.B. NO. 2332

Report Title:

DOT; Harbors; Commercial Ports

Description:

Renames the Harbors Division of the Department of Transportation to the Commercial Ports Division and distinguishes between the terms "harbor" and "commercial port" throughout the statutes.

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

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO COMMERCIAL PORT ADMINISTRATION.

PURPOSE: To clarify the functions and responsibilities of the Department of Transportation by renaming the Department's Harbors Division to the Commercial Ports Division and distinguishing between the use of the terms "harbor" and "commercial port" throughout the Hawaii Revised Statutes (HRS).

MEANS: Amend sections 26-15(b), 26-19(a), 28-2, 36-29, 37-53, 76-16(b), 102-14(g), 171-3(a), 171-24, 188F-2, 200-10(c), 205A-48, 206J-4(b), 206J-5(a), 206J-12(a), 226-17(b), 237-6, 266-1, 266-1.5, 266-1.6, 266-2, 266-2.2, 266-2.5, 266-3(a) and (b), 266-4, 266-4.5, 266-6, 266-7, 266-13(a) and (b), 266-14, 266-17, 266-19(a) and (b), 266-19.5(a), (c), (d), and (e), 266-21.4(a), 266-21.5(a), 266-23, 266-24, 266-24.1(e), 266-24.2, 266-25, 266-27(a) and (c), 266-28, 266-29, 266-30(a), 266-31, 266-53, 266-54(b), 266-55, 266-61, 279A-2(a), 279A-7, 279C-2, 291C-27(b), 311D-1, article II, 386-181(a) and (b), 462A-3, 462A-3.5(b), and 708-814.7(3) and amend the titles of chapter 266, HRS, and sections 266-19, 266-19.5, and 266-27, HRS.

JUSTIFICATION: A harbor is a natural or artificial sheltered area of water, while a port is a man-made facility within a harbor that supports commercial activities. Renaming the Harbors Division to the Commercial Ports Division will more accurately reflect the duties of the Harbors Division. Clarifying the difference between "harbor" and "commercial port" throughout the HRS will ensure consistent terminology and clearer interpretation of statutory provisions.

Impact on the public: This bill will change the name of Harbors Division to Commercial Ports Division to better align its purpose and scope of authority. The public often contacts the Division regarding facilities outside its jurisdiction, likely due to the assumption that "harbors" falls under its control. The new name will help reduce confusion, direct inquiries appropriately, and improve public understanding of the Division's role relative to other agencies.

Impact on the department and other agencies: The bill formally changes the Division's name and clarifies the use of "commercial port" and "harbor" in statute. The change will ensure consistency in terminology and reduce confusion among state agencies regarding jurisdiction over commercial ports.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	TRN 395.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.