
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



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



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

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



1 revenue bonds or other revenue obligations payable
2 from the second separate special fund; and
3 (4) Amounts required by law to be paid from the [~~harbor~~
4 commercial port special fund into the general fund of
5 the State to reimburse the general fund for bond
6 requirements for general obligation bonds issued for
7 harbor or commercial port purposes.

8 The second separate special fund maintained by deposits from the
9 [~~harbor~~ commercial port special fund shall not be deemed to be
10 a special fund within the meaning of section 36-27 or section
11 36-30. The director of transportation shall cooperate with the
12 director of finance in effecting the transfer."

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

15 "**§37-53 Transfer of special funds.** At any time during a
16 fiscal year, notwithstanding any other law to the contrary, any
17 department may, with the approval of the governor or the
18 director of finance if so delegated by the governor, transfer
19 from any special fund relating to [~~such~~] the department to the
20 general revenues of the State all or any portion of moneys
21 determined to be in excess of fiscal year requirements for



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

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



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

5 (1) Commissioned and enlisted personnel of the Hawaii
6 National Guard and positions in the Hawaii National
7 Guard that are required by state or federal laws or
8 regulations or orders of the National Guard to be
9 filled from those commissioned or enlisted personnel;

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

18 (3) Positions that must be filled without delay to comply
19 with a court order or decree if the director
20 determines that recruitment through normal recruitment
21 civil service procedures would result in delay or



- 1 noncompliance, such as the Felix-Cayetano consent
2 decree;
- 3 (4) Positions filled by the legislature or by either house
4 or any committee thereof;
- 5 (5) Employees in the office of the governor and office of
6 the lieutenant governor, and household employees at
7 Washington Place;
- 8 (6) Positions filled by popular vote;
- 9 (7) Department heads, officers, and members of any board,
10 commission, or other state agency whose appointments
11 are made by the governor or are required by law to be
12 confirmed by the senate;
- 13 (8) Judges, referees, receivers, masters, jurors, notaries
14 public, land court examiners, court commissioners, and
15 attorneys appointed by a state court for a special
16 temporary service;
- 17 (9) One bailiff for the chief justice of the supreme court
18 who shall have the powers and duties of a court
19 officer and bailiff under section 606-14; one
20 secretary or clerk for each justice of the supreme
21 court, each judge of the intermediate appellate court,



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



- 1 assistant, and each additional deputy, or assistant
2 deputy, or assistant defined in paragraph (16);
- 3 (10) First deputy and deputy attorneys general, the
4 administrative services manager of the department of
5 the attorney general, one secretary for the
6 administrative services manager, an administrator and
7 any support staff for the criminal and juvenile
8 justice resources coordination functions, and law
9 clerks;
- 10 (11) (A) Teachers, principals, vice-principals, complex
11 area superintendents, deputy and assistant
12 superintendents, other certificated personnel,
13 and no more than twenty noncertificated
14 administrative, professional, and technical
15 personnel not engaged in instructional work;
- 16 (B) Effective July 1, 2003, teaching assistants,
17 educational assistants, bilingual or bicultural
18 school-home assistants, school psychologists,
19 psychological examiners, speech pathologists,
20 athletic health care trainers, alternative school
21 work study assistants, alternative school



1 educational or supportive services specialists,
2 alternative school project coordinators, and
3 communications aides in the department of
4 education;

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

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

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

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

19 (B) Positions filled with students in accordance with
20 guidelines for established state employment
21 programs; and



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

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

13 (15) Positions filled by persons employed on a fee,
14 contract, or piecework basis, who may lawfully perform
15 their duties concurrently with their private business
16 or profession or other private employment and whose
17 duties require only a portion of their time, if it is
18 impracticable to ascertain or anticipate the portion
19 of time to be devoted to the service of the State;

20 (16) Positions of first deputies or first assistants of
21 each department head appointed under or in the manner



1 provided in section 6, article V, of the Hawaii State
2 Constitution; three additional deputies or assistants
3 either in charge of the highways, [~~harbors,~~
4 commercial ports, and airports divisions or other
5 functions within the department of transportation as
6 may be assigned by the director of transportation,
7 with the approval of the governor; one additional
8 deputy in the department of human services either in
9 charge of welfare or other functions within the
10 department as may be assigned by the director of human
11 services; four additional deputies in the department
12 of health, each in charge of one of the following:
13 behavioral health, environmental health, hospitals,
14 and health resources administration, including other
15 functions within the department as may be assigned by
16 the director of health, with the approval of the
17 governor; two additional deputies in charge of the law
18 enforcement programs, administration, or other
19 functions within the department of law enforcement as
20 may be assigned by the director of law enforcement,
21 with the approval of the governor; three additional



1 deputies each in charge of the correctional
2 institutions, rehabilitation services and programs,
3 and administration or other functions within the
4 department of corrections and rehabilitation as may be
5 assigned by the director of corrections and
6 rehabilitation, with the approval of the governor; two
7 administrative assistants to the state librarian; and
8 an administrative assistant to the superintendent of
9 education;

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

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

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

19 (18) Positions in the state foster grandparent program and
20 positions for temporary employment of senior citizens



- 1 in occupations in which there is a severe personnel
2 shortage or in special projects;
- 3 (19) Household employees at the official residence of the
4 president of the university of Hawaii;
- 5 (20) Employees in the department of education engaged in
6 the supervision of students during meal periods in the
7 distribution, collection, and counting of meal
8 tickets, and in the cleaning of classrooms after
9 school hours on a less than half-time basis;
- 10 (21) Employees hired under the tenant hire program of the
11 Hawaii public housing authority; provided that no more
12 than twenty-six per cent of the authority's workforce
13 in any housing project maintained or operated by the
14 authority shall be hired under the tenant hire
15 program;
- 16 (22) Positions of the federally funded expanded food and
17 nutrition program of the university of Hawaii that
18 require the hiring of nutrition program assistants who
19 live in the areas they serve;
- 20 (23) Positions filled by persons with severe disabilities
21 who are certified by the state vocational



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



1 analyst, information technology implementation
2 manager, assistant information technology
3 implementation manager, resource manager, community or
4 project development director, policy director, special
5 assistant to the director, and limited English
6 proficiency project manager or coordinator;

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

9 (32) In the Hawaii emergency management agency, the
10 executive officer, public information officer, civil
11 defense administrative officer, branch chiefs, and
12 emergency operations center state warning point
13 personnel; provided that for state warning point
14 personnel, the director shall determine that
15 recruitment through normal civil service recruitment
16 procedures would result in delay or noncompliance;

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

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



- 1 (35) In the office of homeland security of the department
- 2 of law enforcement, the statewide interoperable
- 3 communications coordinator;
- 4 (36) In the social services division of the department of
- 5 human services, the business technology analyst;
- 6 (37) The executive director and staff of the 911 board;
- 7 (38) The software developer supervisor and senior software
- 8 developers in the department of taxation;
- 9 (39) In the department of law enforcement, five Commission
- 10 on Accreditation for Law Enforcement Agencies, Inc.,
- 11 coordinator positions;
- 12 (40) The state fire marshal and deputy state fire marshal
- 13 in the office of the state fire marshal;
- 14 (41) The administrator for the law enforcement standards
- 15 board;
- 16 (42) In the office of the director of taxation, the data
- 17 privacy officer and tax business analysts; and
- 18 [†] (43) [†] All positions filled by the Hawaii tourism authority
- 19 within the department of business, economic
- 20 development, and tourism.



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

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

5 SECTION 7. Section 102-14, Hawaii Revised Statutes, is
6 amended by amending subsection (g) to read as follows:

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

15 SECTION 8. Section 171-3, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) The department of land and natural resources shall be
18 headed by an executive board to be known as the board of land
19 and natural resources. The department shall manage, administer,
20 and exercise control over public lands, the water resources,
21 ocean waters, navigable streams, coastal areas (excluding



1 commercial [~~harbor~~] port areas), and minerals and all other
2 interests therein and exercise [~~such~~] the powers of disposition
3 thereof as may be authorized by law. The department shall also
4 manage and administer the state parks, historical sites,
5 forests, forest reserves, aquatic life, aquatic life
6 sanctuaries, public fishing areas, boating, ocean recreation,
7 coastal programs, wildlife, wildlife sanctuaries, game
8 management areas, public hunting areas, natural area reserves,
9 and other functions assigned by law."

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

12 "**§171-24 Land conveyances, preparation, signing, record,**
13 **copies.** Except for the preparation and execution of leases and
14 licenses and the issuance of revocable permits and rights of
15 entry by the department of transportation, in its harbor,
16 commercial port, and airport functions, all land patents, deeds,
17 leases, grants, or other conveyances of any public land or any
18 interest therein, shall be prepared by the department of land
19 and natural resources. The department of transportation shall,
20 within thirty days after the execution or issuance of such



1 documents, file or record as directed by the board of land and
2 natural resources the original of the same with the board.

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

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

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

16 **"§188F-2 West Hawaii regional fishery management area;**
17 **establishment.** The department of land and natural resources
18 shall establish the West Hawaii regional fishery management area
19 to improve the management of consumptive and nonconsumptive uses
20 of aquatic resources encompassing the regional ocean area on the
21 west coast of Hawaii Island, from Ka Lae, Kau (South Point) to



1 Upolu Point, North Kohala, but not including the port of
2 Kawaihae [~~commercial~~] and Kawaihae harbor."

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

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

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

15 (2) For commercial maritime activities in which a tariff
16 is established by the [~~harbors~~] commercial ports
17 division of the department of transportation, the
18 department may adopt the published tariff of the
19 [~~harbors~~] commercial ports division of the department
20 of transportation or establish the fee by appraisal by
21 a state-licensed appraiser approved by the department;



- 1 (3) An application fee shall be collected when applying
2 for moorage in state small boat harbors and shall
3 thereafter be collected annually when the application
4 is renewed; provided that the application fee shall be
5 set by the department;
- 6 (4) If a recreational vessel is used as a place of
7 principal habitation, the permittee shall pay, in lieu
8 of the moorage fee required by paragraph (1), a
9 monthly liveaboard fee that shall be two times the
10 moorage fee that would otherwise be assessed for a
11 vessel of the same size;
- 12 (5) If a vessel is used for commercial purposes from the
13 vessel's permitted mooring, the permittee shall pay,
14 in lieu of the moorage fee required by paragraph (1),
15 a monthly fee that shall be the greater of:
- 16 (A) Three per cent of the gross revenues derived from
17 the use of the vessel;
- 18 (B) \$1.50 per passenger carried for hire; or
- 19 (C) Two times the moorage fee that would otherwise be
20 assessed for a recreational vessel of the same
21 size;



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

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

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

9 "**§205A-48 Conflict of other laws.** In case of a conflict
10 between the requirements of any other state law or county
11 ordinance regarding shoreline setback lines, the more
12 restrictive requirements shall apply in furthering the purposes
13 of this part. Nothing contained in this part shall be construed
14 to diminish the jurisdiction of the state department of
15 transportation over wharves, airports, docks, piers, or other
16 commercial [~~harbors,~~] ports, and any other maritime facilities
17 constructed by the State; provided that [~~such~~] the plans are
18 submitted for the review and information of the officer of the
19 respective agency charged with the administration of the county
20 zoning laws, and found not to conflict with any county
21 ordinances, zoning laws, and building codes."



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

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

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

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

18 (1) To sue and be sued;

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



- 1 (3) To make and execute contracts and all other
- 2 instruments necessary or convenient for the exercise
- 3 of its powers and functions under this chapter;
- 4 (4) To make and alter bylaws for its organization and
- 5 internal management;
- 6 (5) To adopt rules under chapter 91 necessary to
- 7 effectuate this chapter in connection with its
- 8 projects, operations, properties, and facilities;
- 9 (6) Through its chief executive officer, to appoint
- 10 officers, agents, and employees, prescribe their
- 11 duties and qualifications, and fix their salaries,
- 12 consistent with chapter 76; its chief executive
- 13 officer may also appoint officers, agents, and
- 14 employees, prescribe their duties and qualifications,
- 15 and fix their salaries, without regard to chapter 76;
- 16 (7) To prepare or cause to be prepared a development plan
- 17 for the Aloha Tower complex, incorporating the needs
- 18 of the department of transportation and accommodating
- 19 the plans, specifications, designs, or estimates of
- 20 any project acceptable to the development corporation;



- 1 (8) To own, lease, hold, clear, improve, and rehabilitate
2 real, personal, or mixed property and to assign,
3 exchange, transfer, convey, lease, sublease, or
4 encumber any project or improvement, including
5 easements, constituting part of a project within the
6 Aloha Tower complex, except that required for
7 necessary maritime purposes, including leases or other
8 agreements for the rehabilitation, repair,
9 maintenance, and operation of the Aloha Tower;
- 10 (9) By itself, or in conjunction with qualified persons,
11 to develop, construct, reconstruct, rehabilitate,
12 improve, alter, or repair or provide for the
13 development, construction, reconstruction,
14 rehabilitation, improvement, alteration, or repair of
15 any project, including projects or any portion thereof
16 under the control or jurisdiction of qualified
17 persons; to own, hold, assign, transfer, convey,
18 exchange, lease, sublease, or encumber any project,
19 including projects or any portion thereof under the
20 control or jurisdiction of qualified persons;



- 1 (10) Notwithstanding any other provision of law to the
2 contrary, to arrange or initiate appropriate action
3 for the planning, replanning, opening, grading,
4 relocating, or closing of streets, roads, roadways,
5 alleys, easements, piers, or other places, the
6 furnishing of facilities, the acquisition of property
7 or property rights, or the furnishing of property,
8 development rights, or services in connection with a
9 project;
- 10 (11) To grant options or renew any lease entered into by it
11 in connection with any project, on terms and
12 conditions as it deems advisable;
- 13 (12) To prepare or cause to be prepared plans,
14 specifications, designs, and estimates of project cost
15 for the development, construction, reconstruction,
16 rehabilitation, improvement, alteration, or repair of
17 any project, and from time to time to modify such
18 plans, specifications, designs, or estimates;
- 19 (13) To provide advisory, consultative, training, and
20 educational services, technical assistance, and advice
21 to any person, partnership, or corporation, either



- 1 public or private, in order to carry out the purposes
2 of this chapter, and engage the services of
3 consultants on a contractual basis for rendering
4 professional and technical assistance and advice;
- 5 (14) To procure insurance against any loss in connection
6 with its property and other assets and operations in
7 [~~such~~] the amounts and from [~~such~~] the insurers as it
8 deems desirable;
- 9 (15) To contract for and accept gifts or grants in any form
10 from any public agency or from any other source;
- 11 (16) To pledge or assign all or any part of the moneys,
12 rents, charges, or other revenues and any proceeds
13 derived by the development corporation from proceeds
14 of insurance or condemnation awards, less guarantees
15 to the [~~harbor~~] commercial port special fund for the
16 loss of revenues or incurrence of costs and expenses
17 because of any action taken by the development
18 corporation; and
- 19 (17) To issue bonds of the development corporation for the
20 purpose of providing funds for any of its corporate
21 purposes."



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

3 "(a) The development corporation, with the approval of the
4 governor, may issue bonds in [~~such~~] the amounts as authorized
5 from time to time by law and as deemed advisable for any of its
6 corporate purposes. The principal of, premium, if any, and
7 interest on [~~such~~] the bonds shall be payable, subject to the
8 prior payment to the [~~harbor~~] commercial port special fund for
9 the loss of revenues or incurrence of costs and expenses because
10 of any action taken by the development corporation or of any
11 rent payable to the department of transportation for the lease
12 of properties within the Aloha Tower complex:

13 (1) Exclusively from the moneys derived from rates,
14 rentals, fees, and charges of the project financed
15 with the proceeds of [~~such~~] bonds imposed under
16 section 206J-5(b), or from [~~such~~] moneys together with
17 any grant from the government in aid of [~~such~~] a
18 project; [~~or~~]

19 (2) Exclusively from the moneys derived from rates,
20 rentals, fees, and charges of certain designated
21 projects imposed under section 206J-5(b), whether or



1 not they are financed in whole or in part with the
2 proceeds of the bonds; or

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

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

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

17 "(b) To achieve the transportation objectives, it shall be
18 the policy of [~~this~~] the State to:

19 (1) Design, program, and develop a multi-modal system in
20 conformance with desired growth and physical
21 development as stated in this chapter;



- 1 (2) Coordinate state, county, federal, and private
2 transportation activities and programs toward the
3 achievement of statewide objectives;
- 4 (3) Encourage a reasonable distribution of financial
5 responsibilities for transportation among
6 participating governmental and private parties;
- 7 (4) Provide for improved accessibility to shipping,
8 docking, and storage facilities;
- 9 (5) Promote a reasonable level and variety of mass
10 transportation services that adequately meet statewide
11 and community needs;
- 12 (6) Encourage transportation systems that serve to
13 accommodate present and future development needs of
14 communities;
- 15 (7) Encourage a variety of carriers to offer increased
16 opportunities and advantages to interisland movement
17 of people and goods;
- 18 (8) Increase the capacities of airport and [~~harbor~~]
19 commercial port systems and support facilities to
20 effectively accommodate transshipment and storage
21 needs;



- 1 (9) Encourage the development of transportation systems
2 and programs [~~which~~] that would assist statewide
3 economic growth and diversification;
- 4 (10) Encourage the design and development of transportation
5 systems sensitive to the needs of affected communities
6 and the quality of [~~Hawaii's~~] the State's natural
7 environment;
- 8 (11) Encourage safe and convenient use of low-cost,
9 energy-efficient, non-polluting means of
10 transportation;
- 11 (12) Coordinate intergovernmental land use and
12 transportation planning activities to ensure the
13 timely delivery of supporting transportation
14 infrastructure in order to accommodate planned growth
15 objectives; and
- 16 (13) Encourage diversification of transportation modes and
17 infrastructure to promote alternate fuels and energy
18 efficiency."

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



1 "§237-6 "Contractor", "contracting", "federal cost-plus
2 contractor", defined. "Contracting" means the business
3 activities of a contractor.

4 "Contractor" includes, for the purposes of this chapter:

5 (1) Every person engaging in the business of contracting
6 to erect, construct, repair, or improve buildings or
7 structures, of any kind or description, including any
8 portion thereof, or to make any installation therein,
9 or to make, construct, repair, or improve any highway,
10 road, street, sidewalk, ditch, excavation, fill,
11 bridge, shaft, well, culvert, sewer, water system,
12 drainage system, dredging or harbor improvement
13 project, commercial port improvement project, electric
14 or steam rail, lighting or power system, transmission
15 line, tower, dock, wharf, or other improvements;

16 (2) Every person engaging in the practice of architecture,
17 professional engineering, land surveying, and
18 landscape architecture, as defined in section 464-1;
19 and



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

4 "Federal cost-plus contractor" means a contractor having a
5 contract with the United States or an instrumentality thereof,
6 excluding national banks, where, by the terms of the contract,
7 the United States or [~~such~~] that instrumentality, excluding
8 national banks, agrees to reimburse the contractor for the cost
9 of material, plant, or equipment used in the performance of the
10 contract and for taxes which the contractor may be required to
11 pay with respect to [~~such~~] the material, plant, or equipment,
12 whether the contractor's profit is computed in the form of a
13 fixed fee or on a percentage basis; and also means a
14 subcontractor under [~~such~~] a contract[~~7~~] who also operates on a
15 cost-plus basis."

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

18 **"CHAPTER 266**

19 **[HARBORS] COMMERCIAL PORTS"**

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



1 "§266-1 Department of transportation; [~~harbors~~]
2 commercial ports; jurisdiction. (a) All commercial ports,
3 harbors, and roadsteads, and all commercial ports, harbors, and
4 other waterfront improvements belonging to or controlled by the
5 State, and all vessels and shipping within the commercial ports,
6 harbors, and roadsteads shall be under the care and control of
7 the department [~~of transportation~~].

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

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

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

14 "Commercial port" means [a harbor or off-shore mooring
15 facility which] an anchorage ground or a marine terminal
16 facility that is primarily for the movement of [commercial]
17 cargo, passenger and fishing vessels entering, leaving, or
18 traveling within the State, and facilities and supporting
19 services for loading, off-loading, and handling of cargo,
20 passengers, and vessels.

21 "Department" means the department of transportation.



1 "Harbor" refers to the following areas of water that
2 provide a natural or artificial haven for vessels and that fall
3 under the jurisdiction of the department:

- 4 (1) Port Allen harbor;
5 (2) Nāwiliwili harbor;
6 (3) Kalaeloa Barbers Point harbor;
7 (4) Honolulu harbor;
8 (5) Kaunakakai harbor;
9 (6) Kaumalapau harbor;
10 (7) Kahului harbor;
11 (8) Hāna harbor;
12 (9) Kawaihae harbor; and
13 (10) Hilo harbor.

14 "Harbor" does not include any small boat harbor or any harbor
15 that is not under the jurisdiction of the department.

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

19 "Vessel" means every description of watercraft used or
20 capable of being used as a means of transportation on water,
21 including power boats, ships, tugs, cruise boats, small craft,



1 smaller commercial vessels, sailing vessels, barges, scows,
2 lighters, ferry boats, pleasure craft, floating equipment, house
3 boats, floating gear, and any and all other watercraft."

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

6 "[~~f~~]**\$266-1.5[~~f~~]** **Port of Honolulu [~~harbor~~] Piers 1 and 2;**
7 **jurisdiction.** Any law to the contrary notwithstanding, the
8 department [~~of transportation~~] shall have jurisdiction and
9 administrative authority over the port of Honolulu [~~harbor~~]
10 Piers 1 and 2 and the contiguous backup fast lands currently
11 used for manifested cargo and passenger operations. This area
12 is defined as all of lot 3 and parcels A and B of the Forrest
13 Avenue subdivision, as shown on the map filed with the bureau of
14 conveyances of the State of Hawaii, as file plan 2335, and lot
15 A-2, as shown on map 2, filed in the office of the assistant
16 registrar of the land court of the State of Hawaii with land
17 court application 1328; provided that all existing easements
18 affecting and appurtenant to the parcels to be deleted from the
19 Kakaako community development district boundaries shall not be
20 affected by this change."



1 SECTION 21. Section 266-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§266-2 Powers and duties of department.** (a) The
4 department [~~of transportation~~] shall:

- 5 (1) Have and exercise all the powers and shall perform all
6 the duties [~~which~~] that may lawfully be exercised by
7 or under the State relative to the control and
8 management of commercial [~~harbors,~~] ports, commercial
9 [~~harbor~~] port, harbor, and other waterfront
10 improvements, [~~ports,~~] harbors, roadsteads, docks,
11 wharves, piers, quays, bulkheads, and landings
12 belonging to or controlled by the State, and the
13 shipping using the same;
- 14 (2) Have the authority to use and permit and regulate the
15 use of the commercial docks, wharves, piers, quays,
16 bulkheads, and landings belonging to or controlled by
17 the State for receiving or discharging passengers and
18 for loading and landing merchandise, with a right to
19 collect wharfage and demurrage thereon or therefor;



- 1 (3) Subject to all applicable provisions of law, have the
2 power to fix and regulate from time to time rates and
3 charges for:
- 4 (A) Services rendered in mooring commercial vessels;
5 (B) The use of commercial moorings belonging to or
6 controlled by the State;
7 (C) Wharfage or demurrage;
8 (D) Warehouse space, office space, and storage space
9 for freight, goods, wares and merchandise; and
10 (E) The use of derricks or other equipment belonging
11 to the State or under the control of the
12 department;
- 13 (4) Make other charges including toll or tonnage charges
14 on freight passing over or across docks, wharves,
15 piers, quays, bulkheads, or landings;
- 16 (5) Appoint and remove clerks, [~~harbor~~] commercial port
17 agents and their assistants, and all such other
18 employees as may be necessary, and to fix their
19 compensation;
- 20 (6) Adopt rules pursuant to chapter 91 and not
21 inconsistent with law; and



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

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

9 All moneys appropriated for commercial port, harbor, or
10 other waterfront improvements, including new construction,
11 reconstruction, repairs, salaries, and operating expenses, shall
12 be expended under the supervision and control of the department,
13 subject to this chapter and chapter 103D.

14 All contracts and agreements authorized by law to be
15 entered into by the department shall be executed on its behalf
16 by the director of transportation.

17 (c) The department shall prepare and submit annually to
18 the governor a report of its official acts during the preceding
19 fiscal year, together with its recommendations as to commercial
20 port, harbor, or other waterfront improvements throughout the
21 State."



1 SECTION 22. Section 266-2.2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§266-2.2[+] **Exemption from conservation district**
4 **permitting and site plan approval requirements.** Notwithstanding
5 any law to the contrary, all work involving submerged lands used
6 for [state] commercial [~~harbor~~] port purposes shall be exempt
7 from any permitting and site plan approval requirements
8 established for lands in a conservation district."

9 SECTION 23. Section 266-2.5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[+]§266-2.5[+] **Outdoor lighting.** To the extent that it
12 is practical and not in conflict with any safety regulation or
13 federal law, regulation, or mandate, if any [~~harbor~~] commercial
14 port rule or standard relating to outdoor lighting at any
15 [~~harbor facility~~] commercial port conflicts with any county
16 ordinance or other rule regarding outdoor lighting, the more
17 stringent requirement or standard shall govern all new
18 installations of outdoor lighting."

19 SECTION 24. Section 266-3, Hawaii Revised Statutes, is
20 amended by amending subsections (a) and (b) to read as follows:



1 "(a) The director of transportation may adopt rules as
2 necessary:

3 (1) To regulate the manner in which all vessels may enter
4 and moor, anchor, or dock in the commercial ports,
5 harbors, [~~ports~~] and roadsteads of the State, or move
6 from one dock, wharf, pier, quay, bulkhead, landing,
7 anchorage, or mooring to another within the commercial
8 ports, harbors, [~~ports~~] and roadsteads;

9 (2) For the examination, guidance, and control of harbor
10 masters and their assistants and their conduct while
11 on duty;

12 (3) For the embarking or disembarking of passengers;

13 (4) For the expeditious and careful handling of freight,
14 goods, wares, and merchandise of every kind that may
15 be delivered for shipment or discharged on the
16 commercial docks, wharves, piers, quays, bulkheads, or
17 landings belonging to or controlled by the State; and

18 (5) To define the duties and powers of carriers, shippers,
19 and consignees respecting passengers, freight, goods,
20 wares, and merchandise in and upon the docks, wharves,
21 piers, quays, bulkheads, or landings within the



1 commercial ports, harbors, [~~ports,~~] and roadsteads of
2 the State. The director may also make further rules
3 for the safety of the docks, wharves, piers, quays,
4 bulkheads, and landings on, in, near, or affecting a
5 commercial [~~harbor~~] port, harbor, and other waterfront
6 improvements belonging to or controlled by the State.

7 (b) The director may also adopt, amend, and repeal such
8 rules as are necessary:

9 (1) For the proper regulation and control of all shipping,
10 traffic, and other related activities in the
11 commercial ports, harbors, or roadsteads belonging to
12 or controlled by the State; of the entry, departure,
13 mooring, and berthing of vessels therein; and of all
14 other matters and things connected with such
15 activities;

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

19 (3) To prevent the discharge or throwing into commercial
20 ports, harbors, or roadsteads of rubbish, refuse,
21 garbage, or other substances likely to affect water



1 quality or that contribute to making [~~such~~] commercial
2 ports, harbors, or roadsteads unsightly, unhealthful,
3 or unclean, or that are liable to fill up shoal or
4 shallow waters in, near, or affecting the commercial
5 ports, harbors[+], or roadsteads; and

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

11 SECTION 25. Section 266-4, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**S266-4 Limitation of powers.** The jurisdiction and powers
14 conferred on the department [~~of transportation are~~] shall be
15 subject to [~~such~~] restrictions as may be imposed by the statutes
16 of the State[+] and shall be exercised in accordance with the
17 provisions thereof."

18 SECTION 26. Section 266-4.5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**[+]S266-4.5 Disposition of public land; reservation of**
21 **right of way. [+]** Whenever any disposition of public land is



1 made by the department [~~of transportation~~], under its powers
2 relating to public lands under its jurisdiction, to any persons,
3 organizations, associations, corporations or clubs for
4 recreational or social purposes, [~~such~~] the leases, licenses,
5 permits or right-of-entry, or any extensions thereof, covering
6 the disposition of public lands shall contain provisions
7 reserving adequate public right of way or public access to
8 adjacent public areas over and across the public land disposed."

9 SECTION 27. Section 266-6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§266-6 Expenditures.** Expenditures by the department [~~of~~
12 ~~transportation~~] shall be made upon vouchers signed by the
13 director of transportation; provided that the director, may, in
14 writing, designate a qualified subordinate to sign vouchers,
15 make routine reports, and perform other routine business duties,
16 subject to the direction of the director, for whose acts the
17 director shall be responsible.

18 The department may cause work to be performed by day labor
19 or by contract or by any other method deemed by the department
20 to be most advantageous to the State."



1 SECTION 28. Section 266-7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§266-7 Department; duties.** The department [~~of~~
4 ~~transportation~~] shall collect all moneys, fees, and dues paid to
5 the State for wharfage, demurrage, and all other fees or
6 compensation in respect to the entry, anchorage, and wharfage of
7 all vessels and other craft entering into the commercial ports
8 of the State[~~7~~] and shall account for the same to the State as
9 hereinafter provided. The department shall keep a full and
10 complete record of the official acts of the department."

11 SECTION 29. Section 266-13, Hawaii Revised Statutes, is
12 amended by amending subsections (a) and (b) to read as follows:

- 13 "(a) All watercraft:
- 14 (1) Lying idle alongside any wharf, pier, bulkhead, quay,
15 or landing belonging to or controlled by the State; or
 - 16 (2) Discharging or receiving freight or passengers on or
17 from any wharf, pier, bulkhead, quay, or landing
18 belonging to or controlled by the State, while made
19 fast or lying alongside of the wharf, pier, bulkhead,
20 quay, or landing[~~7~~],



1 shall pay to the department [~~of transportation such~~] the rates
2 of dockage as shall be fixed by the department.

3 (b) All watercraft that receive or discharge freight or
4 passengers:

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

10 (2) While lying in any slip or dock belonging to or
11 controlled by the State, but not made fast to or lying
12 alongside any wharf, pier, bulkhead, quay, or
13 landing[+] ,

14 shall pay [~~such~~] to the department the rates of dockage as shall
15 be fixed by the department."

16 SECTION 30. Section 266-14, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§266-14 Demurrage, lien, foreclosure.** When any freight
19 has remained upon any wharf, pier, bulkhead, quay, or landing
20 for more than twenty-four hours, the department [~~of~~
21 ~~transportation~~], in its discretion, may make demurrage charges



1 for each subsequent day or part thereof that in its opinion are
2 just and equitable.

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



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

19 "**S266-17 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,



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

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



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

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

19 SECTION 32. Section 266-19, Hawaii Revised Statutes, is
20 amended by amending its title and subsections (a) and (b) to
21 read as follows:



1 "§266-19 **Creation of [~~harbor~~] commercial port special**
2 **fund; disposition of [~~harbor~~] commercial port special fund.** (a)

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

15 All moneys derived pursuant to this chapter from harbor or
16 commercial port properties of the [~~statewide system of harbors~~]
17 commercial ports system of the State shall be paid into the
18 [~~harbor~~] commercial port special fund and each fiscal year shall
19 be appropriated, applied, or expended by the department [~~of~~
20 ~~transportation~~] for the [~~statewide system of harbors~~] commercial
21 ports system of the State for any purpose within the



1 jurisdiction, powers, duties, and functions of the department
2 [~~of transportation~~] related to the [~~statewide system of~~
3 ~~harbors,~~] commercial ports system of the State, including,
4 without limitation, the costs of operation, maintenance, and
5 repair of the [~~statewide system of harbors~~] commercial ports
6 system of the State and reserves therefor, and acquisitions
7 (including real property and interests therein), constructions,
8 additions, expansions, improvements, renewals, replacements,
9 reconstruction, engineering, investigation, and planning, for
10 the [~~statewide system of harbors,~~] commercial ports system of
11 the State, all or any of which in the judgment of the department
12 [~~of transportation~~] are necessary to the performance of its
13 duties or functions.

14 (b) At any time the director of transportation may
15 transfer from the [~~harbor~~] commercial port special fund created
16 by subsection (a) all or any portion of available moneys on
17 deposit in the [~~harbor~~] commercial port special fund that is
18 determined by the director of transportation to be in excess of
19 one hundred fifty per cent of the requirements for the ensuing
20 twelve months for the [~~harbor~~] commercial port special fund, as
21 permitted by and in accordance with section 37-53. For the



1 purposes of this determination, the director of transportation
2 shall take into consideration the amount of federal funds and
3 bond funds on deposit in, and budgeted to be expended from, the
4 ~~[harbor]~~ commercial port special fund during the ensuing twelve
5 months; amounts on deposit in the ~~[harbor]~~ commercial port
6 special fund that are encumbered or otherwise obligated;
7 budgeted amounts payable from the ~~[harbor]~~ commercial port
8 special fund during the ensuing twelve months; revenues
9 anticipated to be received by and expenditures to be made from
10 the ~~[harbor]~~ commercial port special fund during the ensuing
11 twelve months based on existing agreements and other information
12 for that period; and any other factors as the director of
13 transportation shall deem appropriate."

14 SECTION 33. Section 266-19.5, Hawaii Revised Statutes, is
15 amended as follows:

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

17 "**§266-19.5 Private financing of harbor or commercial port**
18 **improvements.** (a) Notwithstanding any law to the contrary, the
19 department ~~[of transportation]~~ may enter into a capital
20 advancement contract with a private party for any public
21 improvement to or construction of a ~~[state]~~ harbor, commercial



1 ~~[harbor,]~~ port, roadstead, or other waterfront improvement
2 belonging to or controlled by the State, if the director of
3 transportation determines that a capital advancement contract
4 promotes the best interest of the State by finding that:

- 5 (1) Private development is likely to be less costly than
6 any other type of contract;
7 (2) Private development provides needed public
8 improvements on a significantly more timely basis; or
9 (3) Public financing for the public improvements is not
10 available on a timely basis."

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

12 "(c) A capital advancement contract under subsection (a)
13 shall be subject to the requirements of chapters 103 and 103D
14 and be subject to the approval of the department [~~of~~
15 ~~transportation~~]; provided that all related transactions shall be
16 subject to state audit.

17 (d) The department [~~of transportation~~] may execute capital
18 advancement contracts pursuant to subsection (a) with a total
19 contract value of \$5,000,000 or less without legislative
20 approval. If the total value of a capital advancement contract
21 pursuant to subsection (a) is greater than \$5,000,000 then the



1 department [~~of transportation~~] shall obtain legislative approval
2 in the form of the adoption of a concurrent resolution affirming
3 the purpose, project, and contract issuance before executing the
4 capital advancement contract. The total aggregate value of all
5 capital advancement contracts entered into by the department
6 pursuant to this section shall not exceed \$30,000,000 in any
7 fiscal year. The department shall submit a report to the
8 legislature of all executed capital advancement contracts for
9 the previous twelve-month period from July 1 to June 30 no later
10 than twenty days prior to the convening of each regular session.

11 (e) For the purposes of this section:

12 "Capital advancement contract" means an agreement between
13 the department [~~of transportation~~] and a private party whereby
14 the private party agrees to furnish capital, labor, or materials
15 for a public improvement to or construction of a [~~state~~] harbor,
16 commercial [~~harbor,~~] port, roadstead, or other waterfront
17 improvement belonging to or controlled by the State and in
18 return for which the private party may be reimbursed in a manner
19 to be determined by the department.



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

4 SECTION 34. Section 266-21.4, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The department shall:

- 7 (1) Develop a list of minimum requirements for the marine
8 inspection of vessels seeking permits to moor in state
9 commercial [~~harbors~~] ports;
- 10 (2) Approve qualified marine surveyors to inspect vessels
11 seeking permits to moor in state commercial [~~harbors~~]
12 ports; and
- 13 (3) Approve a fee schedule for marine surveyors'
14 inspections."

15 SECTION 35. Section 266-21.5, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) The department [~~of transportation~~] shall provide
18 space at commercial [~~harbors~~] ports for biosecurity and
19 inspection facilities and to facilitate the safe and efficient
20 movement of maritime cargo through the commercial [~~harbors~~]
21 ports."



1 SECTION 36. Section 266-23, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§266-23 Acceptance of gifts.** The director of
4 transportation may, with the approval of the governor, accept
5 and receive gifts of personal property, which gifts shall be
6 used for harbor or commercial port purposes; provided that
7 moneys received by the director, pursuant to the authority
8 granted herein, shall be deposited into an appropriate fund or
9 account before being used for harbor or commercial port
10 purposes."

11 SECTION 37. Section 266-24, Hawaii Revised Statutes, is
12 amended to read as follows:

13 **"§266-24 Enforcement.** (a) Every state and county officer
14 charged with the enforcement of any law, statute, rule,
15 regulation, ordinance, or order, shall enforce and assist in the
16 enforcement of this chapter and of all rules and orders issued
17 pursuant thereto, and in carrying out the responsibilities
18 hereunder, each shall be specifically authorized to:

- 19 (1) Conduct any enforcement action hereunder in any
20 commercial [~~harbor~~] port area and any area over which



1 the department [~~of transportation~~] and the director of
2 transportation has jurisdiction under this chapter;

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

9 (3) Serve notices and orders.

10 (b) The department [~~of transportation~~], in the name of the
11 State, may enforce this chapter and the rules and orders issued
12 pursuant thereto by injunction or other legal process in the
13 courts of the State."

14 SECTION 38. Section 266-24.1, Hawaii Revised Statutes, is
15 amended by amending subsection (e) to read as follows:

16 "(e) When a complaint is made to any prosecuting officer
17 of the violation of any provision of this part, including any
18 rule adopted thereunder, the enforcement officer who issued the
19 summons or citation shall subscribe to it under oath
20 administered by another official of the department [~~of~~
21 ~~transportation~~] whose name has been submitted to the prosecuting



1 officer and who has been designated by the director of
2 transportation to administer the oath."

3 SECTION 39. Section 266-24.2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~{}~~§266-24.2~~{}~~ **Vessels or property taken into legal**
6 **custody; unauthorized control.** No person shall exercise control
7 over a vessel or other property that is under legal custody,
8 seizure, or detention by the department [~~of transportation~~],
9 with intent to defeat the custody, seizure, or detention, or
10 impede, oppose, or defeat the process whereby the vessel or
11 other property is under custody, seizure, or detention."

12 SECTION 40. Section 266-25, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§266-25 **Violation of rules; penalty.** (a) In addition to
15 the reimbursement of fines and costs as provided in section 266-
16 28, any person who violates any rule made, adopted, and
17 published by the department [~~of transportation~~] as herein
18 provided, or who violates any lawful command of any harbor
19 master, [~~harbor~~] commercial port agent, facility security
20 officer, or [~~harbor~~] commercial port district manager, while in
21 the discharge of the person's duty, or who violates this



1 chapter, except as provided in subsections (b) and (c), shall be
2 fined not more than \$1,000 or less than \$50 for each violation,
3 and any vessel, the agents, owner, or crew of which violate the
4 rules of the department or this part, shall be fined not more
5 than \$1,000 or less than \$50 for each violation; provided that
6 in addition to or as a condition to the suspension of the fines
7 and penalties, a court, the department, or an administrative
8 hearings officer may deprive the offender of the privilege of
9 entering the secured area of the port or obtaining an operating
10 or mooring permit for any vessel in state waters for a period of
11 not more ~~than~~ ~~than~~ one year; provided further that the
12 offender, at the resumption of the privilege of operating or
13 mooring a vessel in state waters, shall assume the last position
14 on any waiting list.

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



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

4 (c) Any person who violates any rule adopted by the
5 department [~~of transportation~~] relating to unauthorized
6 discharge, dumping, or abandoning any petroleum product,
7 hazardous material, or sewage in any [~~state~~] harbor [~~facility~~],
8 commercial port, or state waters in violation of the state water
9 quality standards established by the department of health, shall
10 be fined not more than \$10,000 for each day of violation, and
11 any vessel, the agents, owner, or crew of which violate the
12 rules of the department [~~of transportation~~] or this chapter,
13 shall be fined not more than \$10,000 for each day of violation;
14 provided that in addition to or as a condition to the suspension
15 of the fines and penalties, the court, department, or
16 administrative [+]hearings[+] officer may deprive the offender
17 of the privilege of entering the secured area of the port or
18 obtaining an operating or mooring permit for any vessel in state
19 waters for a period of not more than one year; provided further
20 that the offender, at the resumption of the privilege of



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

3 SECTION 41. Section 266-27, Hawaii Revised Statutes, is
4 amended as follows:

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

6 "~~§266-27~~ **Mooring of unauthorized vessel in [state**
7 **~~harbors;]~~ commercial ports; impoundment and disposal**
8 **proceedings.** (a) No person shall moor a vessel in a [state]
9 commercial [~~harbor~~] port without obtaining a use permit; nor
10 shall a person continue to moor a vessel in any [state]
11 commercial [~~harbor~~] port if the use permit authorizing the
12 vessel to moor has expired or otherwise been terminated. A
13 vessel moored without a use permit or with a use permit that has
14 expired or been terminated is an unauthorized vessel and [~~is~~]
15 shall be subject to subsections (b) [~~to~~] through (e)."

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

17 "(c) An unauthorized vessel may be impounded by the
18 department at the sole cost and risk of the owner of the vessel,
19 if [~~such a~~] the vessel is not removed after the seventy-two-hour
20 period or if during said period the vessel is removed and re-



1 moored in said [~~harbor~~] commercial port or any other state
2 commercial [~~harbor~~] port without a use permit."

3 SECTION 42. Section 266-28, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§266-28 Fines arising from environmental protection and**
6 **maritime transportation security violations.** Notwithstanding
7 any other law to the contrary, any commercial [~~harbor~~] port
8 tenant or user, including any shipper or shipping agent, who
9 violates any federal, state, or county law or rule relating to
10 environmental protection or maritime transportation security
11 pursuant to title 33 Code of Federal Regulations chapter 1 and
12 thereby causes a fine to be levied by the United States Coast
13 Guard upon the department, shall reimburse the department for
14 the entire amount of the fine. The department may take [~~such~~]
15 the actions necessary to collect and deposit any amount
16 reimbursable under this section into the [~~harbor~~] commercial
17 port special fund[7] and may also demand reimbursement for costs
18 or expenses incurred by the department resulting from
19 enforcement of this section."

20 SECTION 43. Section 266-29, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[+]§266-29[+] State [~~harbors~~] commercial ports civil
2 **violations system; authorization.** (a) There is established,
3 within the department [~~of transportation~~], a [~~state harbors~~]
4 commercial ports civil violations system, whose purpose shall be
5 to process violations of departmental regulations for which
6 administrative penalties have been authorized by law or rules
7 adopted thereunder.

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

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

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

15 (2) A form of the answer that shall be made pursuant to a
16 notice of [~~state harbors~~] commercial ports infraction,
17 which answer may be an admission of the infraction, a
18 denial of the infraction, or an admission of the
19 infraction with mitigating circumstances;



- 1 (3) The action to be taken after an answer is received or
2 when a person fails to answer the notice of [~~state~~
3 ~~harbors~~] commercial ports infraction;
- 4 (4) Procedures for administrative hearings under this
5 section;
- 6 (5) The imposition and enforcement of monetary assessments
7 made pursuant to this section; and
- 8 (6) Means of assuring that the alleged violator who
9 answers the notice of [~~state harbors~~] commercial ports
10 infraction by an admission of the infraction or an
11 admission of the infraction with mitigating
12 circumstances has knowingly and voluntarily elected to
13 use the [~~state harbors~~] commercial ports civil
14 violations system and waive the appeal provided for in
15 section 91-14.
- 16 (d) Notwithstanding any other provision of law to the
17 contrary, all [~~state harbors~~] commercial ports infractions that
18 the department [~~of transportation~~] identifies as subject to
19 administrative penalties may be adjudicated pursuant to this
20 section."



1 SECTION 44. Section 266-30, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

13 SECTION 45. Section 266-31, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[~~§~~266-31~~]~~ **Restriction of use of facilities.** The
16 department [~~of transportation~~] may delay or deny approval for
17 port entry or departure for any vessel for which the department
18 has received notice from a federal agency or other agency that
19 the vessel or its crew has engaged in activity that has violated
20 any federal, state, or county law or rule pertaining to
21 environmental protection, maritime transportation, trafficking



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

6 SECTION 46. Section 266-53, Hawaii Revised Statutes, is
7 amended to read as follows:

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

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

18 (2) The use or occupancy of the special facility under
19 [~~such~~] the special facility lease would not result in
20 the reduction of the revenues derived from the
21 [~~harbors~~] commercial ports system of the State to an



1 amount below the amount required to be derived
2 therefrom by section 39-61; and
3 (3) The entering into of [~~such~~] the special facility lease
4 would not be in violation of or result in a breach of
5 any covenant contained in any resolution or
6 certificate authorizing any bonds of the State and the
7 department then outstanding."

8 SECTION 47. Section 266-54, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

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

16 SECTION 48. Section 266-55, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§266-55 Special facility revenue bonds.** All special
19 facility revenue bonds, including special facility revenue
20 refunding bonds, authorized to be issued shall be issued
21 pursuant to part III of chapter 39, except as follows:



- 1 (1) No special facility revenue bonds shall be issued
2 unless at the time of issuance the department shall
3 have entered into a special facility lease with
4 respect to the special facility for which the revenue
5 bonds are to be issued;
- 6 (2) Special facility revenue bonds shall be issued in the
7 name of the department, and not in the name of the
8 State;
- 9 (3) No further authorization of the legislature shall be
10 required for the issuance of the special facility
11 revenue bonds, but the approval of the governor shall
12 be required for the issuance;
- 13 (4) Special facility revenue bonds shall be payable solely
14 from and secured solely by the revenues derived by the
15 department from the special facility for which they
16 are issued, as defined in section 266-51;
- 17 (5) The final maturity date of the special facility
18 revenue bonds shall not be later than either the
19 estimated life of the special facility for which they
20 are issued or the initial term of the special facility
21 lease;



1 (6) If deemed necessary or advisable by the department, or
2 to permit the obligations of the other person to the
3 special facility lease to be registered under the
4 United States Securities Act of 1933, the department
5 with the approval of the state director of finance may
6 appoint a national or state bank within or without the
7 State to serve as trustee for the holders of the
8 special facility revenue bonds and may enter into a
9 trust indenture or trust agreement with the trustee.
10 The trustee may be authorized by the department to
11 collect, hold, and administer the revenues derived
12 from the special facility for which the special
13 facility revenue bonds are issued and to apply the
14 revenues to the payment of the principal and interest
15 on the special facility revenue bonds. If any trustee
16 shall be appointed, any trust indenture or agreement
17 entered into by the department with the trustee may
18 contain the covenants and provisions authorized by
19 part III of chapter 39 to be inserted in a resolution
20 adopted or certificate issued, as though the words
21 "resolution" or "certificate" as used in that part



1 read "trust indenture or agreement". Those covenants
2 and provisions shall not be required to be included in
3 the resolution or certificate authorizing the issuance
4 of the special facility revenue bonds if included in
5 the trust indenture or agreement. Any resolution or
6 certificate, trust indenture, or trust agreement
7 adopted, issued, or entered into by the department
8 pursuant to this part may also contain any provisions
9 required for the qualification thereof under the
10 United States Trust Indenture Act of 1939. The
11 department may pledge and assign to the trustee the
12 special facility lease and the rights of the
13 department including the revenues thereunder;

14 (7) If the department with the approval of the state
15 director of finance shall have appointed or shall
16 appoint a trustee for the holders of the special
17 facility revenue bonds, then notwithstanding the
18 second sentence of section 39-68, the director of
19 finance may elect not to serve as fiscal agent for the
20 payment of the principal and interest, and for the
21 purchase, registration, transfer, exchange, and



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



1 as fiscal agents, paying agents, and registrars for
2 the special facility revenue bonds or to authorize and
3 empower fiscal agents, paying agents, and registrars
4 to perform the functions referred to in the preceding
5 paragraph and sections 36-3 and 39-13 and the third
6 sentence of section 39-68, it being the intent of this
7 paragraph to confirm that the director of finance as
8 aforesaid may elect not to serve as fiscal agent for
9 the special facility revenue bonds or may elect to
10 limit the functions the director shall perform as
11 fiscal agent, as the director of finance may deem
12 necessary, advisable, or expedient;

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

15 (9) If no trustee shall be appointed to collect, hold, and
16 administer the revenues derived from the special
17 facility for which the special facility revenue bonds
18 are issued, the revenues shall be held in a separate
19 account in the treasury of the State, separate and
20 apart from the [~~harbor~~] commercial port special fund,
21 to be applied solely to the carrying out of the



1 resolution, certificate, trust indenture, or trust
2 agreement authorizing or securing the special facility
3 revenue bonds;

4 (10) If the resolution, certificate, trust indenture, or
5 trust agreement shall provide that no special facility
6 revenue bonds issued thereunder shall be valid or
7 obligatory for any purpose unless certified or
8 authenticated by the trustee for the holders of the
9 special facility revenue bonds, signatures of the
10 officers of the State upon the bonds and the coupons
11 thereof as required by section 39-56 may be evidenced
12 by their facsimile signatures;

13 (11) The proceeds of special facility revenue bonds may be
14 used and applied by the department to reimburse the
15 other person to the special facility lease for all
16 preliminary costs and expenses, including
17 architectural and legal costs; and

18 (12) If the special facility lease shall require the other
19 person to operate, maintain, and repair the special
20 facility that is the subject of the lease, at the
21 other person's expense, the requirement shall



1 constitute compliance by the department with section
2 39-61(a)(2), and none of the revenues derived by the
3 department from the special facility shall be required
4 to be applied to the purposes of section 39-62(2).
5 Sections 39-62(4), 39-62(5), and 39-62(6) shall not be
6 applicable to the revenues derived from a special
7 facility lease."

8 SECTION 49. Section 266-61, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Except as provided in subsection (b), in addition to
11 the duties of the department [~~of transportation~~] imposed under
12 part I, the department [~~of transportation~~] shall require that
13 the securing of mooring lines from vessels to commercial docks,
14 wharves, piers, quays, and landings be performed by labor
15 subject to collective bargaining."

16 SECTION 50. Section 279A-2, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

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



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 51. 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:



- 1 (1) The council shall be responsible for making
2 recommendations on projects for submission to the
3 legislature which involve solely and exclusively
4 either state highways, harbors, commercial ports, and
5 water-borne transit, and airports and air
6 transportation; solely and exclusively state funds; or
7 solely state lands. All other projects for submission
8 to the legislature, including intra-county mass
9 transit projects, shall be the responsibility of the
10 counties~~[r]~~;
- 11 (2) In respect to transportation projects for which the
12 counties are responsible for planning and approval
13 prior to submission to the legislature, the council
14 shall review [~~such~~] the projects and prepare comments
15 for the legislature regarding:
- 16 (A) The degree to which an intra-island
17 transportation project interfaces efficiently
18 with existing proposed inter-island
19 transportation system; and
- 20 (B) The relationship between the specific projects'
21 possible requirements for state financial



1 assistance and projections as to the State's
2 total potential financial commitments required
3 for development of a statewide transportation
4 system[~~-~~]; and

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



1 SECTION 52. Section 279C-2, Hawaii Revised Statutes, is
2 amended to read as follows:

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

13 SECTION 53. Section 291C-27, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) [~~As used in~~] For the purposes of this section,
16 "emergency vehicle" means a police or fire department vehicle,
17 ocean safety vehicle, emergency medical services vehicle,
18 freeway service patrol vehicle, sheriff division vehicle, Hawaii
19 emergency management agency vehicle, county emergency management
20 vehicle, civil defense vehicle, department of transportation
21 [~~harbors~~] commercial ports division vehicle, department of land



1 and natural resources division of conservation and resources
2 enforcement vehicle, or a tow truck."

3 SECTION 54. Section 311D-1, Hawaii Revised Statutes, is
4 amended by amending article II to read as follows:

5 **"ARTICLE II**

6 **DEFINITIONS**

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

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

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

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

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



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

4 "Deployment" means the period of three months [~~prior to~~]
5 before the service members' departure from their home station on
6 military orders through six months after return to their home
7 station.

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

16 "Extracurricular activities" means a voluntary activity
17 sponsored by the school or appropriate education agency or an
18 organization sanctioned by the appropriate education agency.

19 "Extracurricular activities" [~~include~~] includes preparation for
20 and involvement in public performances, contests, athletic
21 competitions, demonstrations, displays, and club activities.



1 "Interstate commission on educational opportunity for
2 military children" or "interstate commission" means the
3 commission that is created under article IX of this compact.

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

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

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

19 "Non-member state" means a state that has not enacted this
20 compact.



1 "Receiving state" means the state to which a child of a
2 military family is sent, brought, or caused to be sent or
3 brought.

4 "Rule" means a written statement by the interstate
5 commission promulgated pursuant to article XII of this compact
6 that is of general applicability, implements, interprets, or
7 prescribes a policy or provision of the compact, or an
8 organizational, procedural, or practice requirement of the
9 interstate commission, has the force and effect of statutory law
10 in a member state, and includes the amendment, repeal, or
11 suspension of an existing rule.

12 "Sending state" means the state from which a child of a
13 military family is sent, brought, or caused to be sent or
14 brought.

15 "State" means a state of the United States, the District of
16 Columbia, the Commonwealth of Puerto Rico, the United States
17 Virgin Islands, Guam, American Samoa, the Northern Marianas
18 Islands, and any other United States territory.

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



1 "Student financial obligation" means any unpaid or
2 outstanding fines or fees.

3 "Transition" means the formal and physical process of
4 transferring from school to school, or the period of time in
5 which a student moves from one school in the sending state to
6 another school in the receiving state.

7 "Uniformed service" means the Army, Navy, Air Force, Marine
8 Corps, Coast Guard as well as the Commissioned Corps of the
9 National Oceanic and Atmospheric Administration, and Public
10 Health Services.

11 "Veteran" means a person who served in the uniformed
12 services and who was discharged or released therefrom under
13 honorable conditions."

14 SECTION 55. Section 386-181, Hawaii Revised Statutes, is
15 amended by amending subsections (a) and (b) to read as follows:

16 "(a) ~~[As used in]~~ For the purposes of this section:

17 "Police chaplain" means a member of an authorized
18 chaplaincy program 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.



1 "Public board" means a governmental body, regardless of its
2 designation, duly created under authority vested by law for the
3 purposes of performing quasi-judicial, administrative, or
4 advisory functions.

5 "Reserve police officer" means a member of an authorized
6 reserve force of a county police department who performs
7 services in a voluntary and unpaid capacity under the authorized
8 direction of an officer of the department.

9 "Reserve public safety law enforcement officer" means a
10 member of the authorized volunteer law enforcement force of the
11 department of law enforcement who performs services in a
12 voluntary and unpaid capacity under the authorized direction of
13 an officer of the department of law enforcement.

14 "Sheriffs' chaplain" means a member of an authorized
15 chaplaincy program of the department of law enforcement who
16 performs functions similar to a police chaplain in a voluntary
17 and unpaid capacity for the sheriff division.

18 "Volunteer boating enforcement officer" means a member of
19 the authorized volunteer enforcement force of the [~~harbors~~
20 commercial ports division, department of transportation, who



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

3 "Volunteer conservation and resources enforcement officer"
4 means a member of the authorized volunteer enforcement force of
5 the division of conservation and resources enforcement,
6 department of land and natural resources, who performs services
7 in a voluntary and unpaid capacity under the authorized
8 direction of an officer of the department.

9 "Volunteer firefighter" means a person who performs
10 services for a county fire department in a voluntary and unpaid
11 capacity under the authorized direction of an officer of the
12 department.

13 (b) If a member of a public board, a reserve police
14 officer, a police chaplain, a reserve public safety law
15 enforcement officer, sheriffs' chaplain, a volunteer
16 firefighter, a volunteer boating enforcement officer, or a
17 volunteer conservation and resources enforcement officer is
18 injured while performing services for the board, county police
19 department, county fire department, department of law
20 enforcement, [~~harbors~~] commercial ports division of the
21 department of transportation, or division of conservation and



1 resources enforcement of the department of land and natural
2 resources, under the conditions specified in section 386-3, the
3 person or the person's dependents shall be entitled to all
4 compensation in the manner provided by this chapter and, for the
5 purposes of this chapter, the person shall, in every case, be
6 deemed to have earned wages for the services."

7 SECTION 56. Section 462A-3, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§462A-3 Powers and duties of the director.** In addition
10 to any other powers and duties authorized by law, the director
11 shall:

- 12 (1) Grant licenses to port pilots and deputy port pilots
13 pursuant to this chapter, when the need arises;
- 14 (2) Adopt, amend, or repeal rules in accordance with
15 chapter 91 as may be necessary to carry out the
16 purposes of this chapter which are to provide for
17 maximum efficiency in navigating vessels entering or
18 leaving the waters of [~~this~~] the State; maintain a
19 pilotage system devoted to the preservation, and
20 protection of lives, property, and vessels entering or
21 leaving waters of the State; and ensure an adequate



- 1 supply of qualified pilots in aid of commerce and
2 navigation;
- 3 (3) Develop appropriate standards for licensure and
4 renewal of licensure to maintain an adequate supply of
5 pilots based on the needs of users of pilotage
6 services or the department of transportation's
7 [~~harbors~~] commercial ports division. Licensing
8 requirements shall include examinations and
9 investigations to determine whether persons applying
10 for full port pilot, or deputy port pilot licenses are
11 qualified;
- 12 (4) Enforce this chapter and rules adopted pursuant
13 thereto;
- 14 (5) Suspend, revoke or deny the issuance of any license
15 for any cause prescribed by this chapter, or for any
16 violation of the rules;
- 17 (6) Investigate any person for violations of any
18 provisions of this chapter;
- 19 (7) Adopt methods to improve disciplinary and enforcement
20 programs against violations of this chapter; and



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

4 SECTION 57. Section 462A-3.5, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

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

13 SECTION 58. Section 708-814.7, Hawaii Revised Statutes, is
14 amended by amending subsection (3) to read as follows:

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

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

18 "Improved state land" means any state land, including but
19 not limited to harbors or commercial ports under the care and
20 control of the department of transportation under chapter 266,
21 and small boat harbors under the care and control of the



1 department of land and natural resources under chapter 200, upon
2 which there is improvement, including any structure, building,
3 or facility; or alteration of the land by grading, dredging, or
4 mining that would cause a permanent change in the land or that
5 would change the basic natural condition of the land. Land is
6 not "improved state land" if it only has minor improvements,
7 including utility poles, signage, and irrigation facilities or
8 systems; or minor alterations undertaken for the preservation or
9 prudent management of the unimproved or unused land, including
10 fences, trails, or pathways. Land is not "improved state land"
11 solely due to the performance of state maintenance activities on
12 the land, including forest plantings and the removal of weeds,
13 brush, rocks, boulders, or trees; or removal or securing of
14 rocks or boulders undertaken to reduce risk to downslope
15 properties.

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

18 SECTION 59. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 60. This Act shall take effect upon its approval.



S.B. NO. 3152
S.D. 2

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.
(SD2)

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

