

**ACT 186**

An Act Relating to the Hawaii State Ferry System and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Ferry system and facilities authorized.** It being hereby declared that the establishment of a ferry system to provide the people of this State with an economic means of transportation is a public purpose, the department of transportation, hereinafter referred to as the department, is authorized to acquire by lease, charter, contract, purchase, condemnation or construction, and partly by any or all of such means, and to thereafter operate, improve and extend, as a public undertaking and enterprise, a system of ferries between the islands of the State and connecting with the public streets and highways in the State, such system of ferries to include such boats, vessels, wharves, docks, approaches, landings, franchises, licenses, and appurtenances, as shall be determined by the department to be necessary or desirable for the efficient operation of a ferry system to best serve the public. In general the department shall have all the powers necessary or convenient to carry out effectively the purpose and provisions of this Act. The department may acquire by purchase, condemnation or construction and include in such ferry system such approaches and connecting roadways as may be deemed by the department advantageous in channeling traffic to points served by the ferry system. The department is empowered to enter into any contracts, agreements or leases with any person, firm or corporation whether public or private and to thereby provide, on such terms and conditions as it shall determine, for the operation of any ferry or ferries or system thereof, whether acquired by the department or not. The department is further authorized to exercise the power of eminent domain for the acquisition of either real or personal property, necessary for such ferry system.

**SECTION 2. "Hawaii State Ferries" name authorized.** The department is hereby authorized to operate its ferry system under the name "Hawaii State Ferries".

**SECTION 3. Survey.** The department may make any examination, investigation, survey or reconnaissance it deems necessary for obtaining

information relative to the acquisition, construction, or operation of the ferry or ferry facilities.

**SECTION 4. Appropriation.** There is hereby appropriated from the general revenues of the State the sum of \$150,000 or so much thereof as may be necessary, to defray the cost of any such examination, investigation, survey or reconnaissance and all preliminary expenses leading up to and resulting in the issuance of any bonds including, but not being limited to, expenses in making surveys and appraisals.

**SECTION 5. Bonds.** For the purpose of paying the cost of acquiring by lease, charter, contract, purchase, condemnation or construction of all or any part of such ferry system, approaches and roadways incidental thereto and for rehabilitating, rebuilding, enlarging or improving all or any part of the facilities or system, the department is authorized by certificate to issue revenue bonds in the amount of \$12,000,000, pursuant to chapter 137, part III, Revised Laws of Hawaii 1955, as amended, which such bonds shall constitute obligations only of the undertaking and shall be payable solely and only from all or such part of the gross revenues from the operation of the system as may be provided in and by such certificate.

Each revenue bond shall contain a recital that payment or redemption of the bond and payment of the interest thereon is secured by the direct charge and lien upon the tolls, charges, rents, and gross revenues pledged for that purpose and that such bond does not constitute an indebtedness of the State. It shall further recite that the revenues of the system shall maintain and operate the system except that the State may supplement such revenues for the operation and maintenance of the system for a period not to exceed five years from the date each revenue bond is issued.

**SECTION 6. Operation of ferry system.** The department is empowered to operate such ferry system, including all operations, whether intrastate or international, upon any route or routes, as a revenue producing undertaking. The department shall have full charge of the construction, rehabilitation, rebuilding, enlarging, improving and maintenance of the ferry system, including approaches and roadways incidental thereto that may be authorized by the department, the granting of concessions, the collection of tolls and other charges for the services and facilities of the undertaking; provided that the department shall comply with the provisions of chapter 7-B of the Revised Laws of Hawaii 1955, as amended, relating to contracts for concessions on public property.

**SECTION 7. Fixing of charges, rates and disbursements of revenues.** The department shall establish and maintain a schedule of charges and rates for the services and facilities of the ferry system. All such rates shall be reasonable and consistent with the purpose of providing economical interisland transportation, notwithstanding the provisions of section 137-58, Revised Laws of Hawaii 1955, as amended, or any other law to the contrary.

**SECTION 8. Seamen may sue for injuries; venue.** The State consents to suits against the department by seamen for injuries occurring upon vessels under the authority of the Hawaii state ferries system in

accordance with the provisions of section 688, title 46, of the United States Code. The venue of such actions may be in the first circuit court or the circuit wherein the injury occurred.

**SECTION 9. Authority as a common carrier; rights and liabilities.** The department shall have all the obligations, duties and rights of a common carrier of persons and property in its operation of ferries, terminals or other facilities used in its ferry operations, including the right to participate in joint rates and through routes, agreements, and divisions of through and joint rates with railroads and other common carriers and the right to make any filings with the interstate commerce commission, the United States maritime commission or any other state or federal regulatory or governmental body and to comply with the lawful rules and regulations or requirements of any such body, and shall be subject to laws relating to carrier's liability for loss or damage to property transported, and for personal injury or death of persons transported.

**SECTION 10. Liability for damages as to persons or property.** In case of property loss or damage, personal injuries or death resulting from the operation of any ferry or terminal by the department, any person or the personal representative of any person shall, subject to and to the extent hereinafter provided, have a right of action against the department for such damage, loss, injury or death.

**SECTION 11. Liability to persons other than shippers or passengers; limitation.** The right of action extended by this Act shall be applicable to loss or damage of property or personal injury or death, resulting from the operation of ferries or terminals by the department to persons other than shippers or passengers, but any recovery of damages in such cases shall not exceed an amount equal to the limitations of the insurance carried by the department to insure it against loss for such liability.

**SECTION 12. Claim for damages; filing and contents; time limitations.** As a condition to a recovery thereon, a verified claim against the department growing out of such damages, loss, injuries or death must first be presented to the department and filed with its director within thirty (30) days after the time when such claim accrued. If the claimant shall be incapacitated from verifying and filing his claim within said thirty days, then the claim may be verified and presented on behalf of said claimant by his relative, attorney or agent. If the claimant be a minor or incompetent person, the claim may be verified and filed by his guardian or next friend. Each such claim must accurately locate and describe the event or defect that caused the damage, loss, injury, or death, reasonably describe the damage, loss or injury, and state the time when the same occurred, give the claimant's residence for six months last past and contain the items of damages claimed. No action shall be maintained against the department upon such claim until the same has been presented to, and filed with, the department and sixty (60) days have elapsed after such presentation and filing, nor more than two (2) years after such claim accrued.

**SECTION 13. Payment of claims.** The department may upon such terms and conditions as it may impose and under such rules and regu-

lations as it may adopt, pay claims arising under its operation of ferries or terminals or compromise or settle such claims. No claim shall be paid by the department or any settlement or compromise thereof be made except from its operating revenues derived from its operation of ferries or terminals or from the proceeds of insurance recoveries.

**SECTION 14. Venue of actions; enforcement of judgment.** Actions for the recovery of damages under sections 10 to 14 of this Act may be brought in the first circuit court or in the circuit in which the aggrieved person resides. No execution upon a judgment or attachment shall be levied against the property of the department, nor does the State consent to any maritime lien against vessels of the department, but the department may be required by order of court to pay any judgment.

**SECTION 15.** The director of transportation shall prepare a report in writing of the nature and extent of his activities under the provisions of this Act. The report shall be delivered to each house of the legislature at least thirty (30) days before each session convenes.

**SECTION 16.** If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 17. Effective date.** This Act shall take effect upon its approval.

(Approved June 4, 1963.) **S.B. 16.**

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