

DAVID Y. IGE
GOVERNOR



**STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
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JADE T. BUTAY
DIRECTOR

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LYNN A.S. ARAKI-REGAN
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ROSS M. HIGASHI
EDWIN H. SNIFFEN

IN REPLY REFER TO:

December 18, 2019

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki
Speaker and Members of the House of
Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the report on "The Feasibility of Establishing a Hawaii Commercial Harbors Authority" as required by House Resolution 61, 2019 Legislative Session.

In accordance with Section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at
<http://hidot.hawaii.gov/library/reports/reports-to-the-legislature/>.

Sincerely,

A handwritten signature in blue ink, appearing to be "Jade T. Butay", is written over a horizontal line.

JADE T. BUTAY
Director of Transportation

c: Legislative Reference Bureau

**REQUESTING THE HARBORS DIVISION OF THE DEPARTMENT OF
TRANSPORTATION TO CONVENE A TASK FORCE TO STUDY THE FEASIBILITY
OF ESTABLISHING A HAWAII COMMERCIAL HARBORS AUTHORITY**

This Report is Prepared and Submitted
Pursuant to the Provisions of
House Resolution (H.R.) No. 61,
30th Legislature of the State of Hawaii,
Regular Session of 2019

Submitted by

**The Department of Transportation,
Harbors Division**

December 16, 2019

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TASK FORCE REPORT ON THE FEASIBILITY OF A HAWAII COMMERCIAL HARBORS AUTHORITY

1. **INTRODUCTION.** House Resolution No. 61 of the House of Representatives, Thirtieth Legislature, 2019, requested that Harbors Division of the Department of Transportation (DOT) convene a task force to study the feasibility of establishing a Hawaii Commercial Harbors Authority (Appendix A).
2. **TASK FORCE MEMBERS.** The Harbors Division Deputy Director convened a Task Force (TF) of entities prescribed by the House Resolution No. 61 (Resolution) to evaluate the feasibility of a Hawaii Commercial Harbors Authority (Authority). TF members were sought voluntarily from each of the agencies/organizations identified in the Resolution. These included:
 - The Hawaii Tourism Authority – Keith Regan, Chief Administrative Officer;
 - The Department of Budget and Finance – Robert Yu, Deputy Director;
 - The Department of Human Resources Development (DHRD) – Andrew Garrett, Deputy Director;
 - The Department of Land and Natural Resources (DLNR) – Bob Masuda, Deputy Director;
 - The Environmental Health Administration of the Department of Health – Keith Kawaoka, Deputy Director;
 - The International Longshore and Warehouse Union (ILWU), Local 142 – William “Baba” Ha’ole, Hawaii Longshore Division Director;
 - The Hawaii Longshore Division of ILWU, Local 142 – Richard Kamoe, Vice Division Director;
 - United Public Workers, Local 646 – Dayton Nakanelua, State Director;
 - The Hawaii Government Employee Association, Local 152 – Rick Hartsell, Union Agent;
 - The Hawaii Harbors Users Group – Ku’uhaku Park, Vice President of Government and Community Relations, Matson, Inc.; and
 - DOT Harbors Division – Derek Chow, Deputy Director (Task Force Chairperson).
3. **METHODOLOGY.** The TF agencies and organizations were prescribed by the Resolution. The agencies represented are directly or indirectly involved in the operations, maintenance, development, regulation, compliance and tourism within Hawaii’s harbors. The TF membership represent state employees, state procedures, longshore workers, and the maritime industry.

The approach taken was to objectively research, gather, consider and openly discuss information related to existing port authorities that would help to inform TF members in deciding how an Authority would affect their constituents. The TF met five (5) times during the period from August 2019 to December 2019. The discussion topics were summarized for each meeting (Appendix B).

In addition to the research and meetings, the TF was invited to participate in a West Coast port authority tour hosted by the Hawaii Harbors User Group (HHUG) to gain first hand insights of port authorities.

4. PROS AND CONS. Pros and cons of the creation of an Authority were discussed throughout the TF meetings. The Pros and Cons are summarized as follows:

- Pros:
 - Eliminating politics in decision making.
 - Independence.
 - Upgrade of neighbor island police.
 - Consistent leadership.
 - Leadership selected based on qualifications and not just political appointees.
- Cons:
 - A governing body with full authority to manage and operate the harbors and maritime systems only with efficiency in mind potentially means bypassing or amending current laws affecting the civil service and public sector collective bargaining with respect to elimination of the spoils systems and the encouragement of openness, merit and independence.

5. PORT AUTHORITY TOUR. During October 21-25, 2019, the HHUG hosted a tour of four (4) port authorities to help the TF members and other stakeholders understand the history, challenges, issues, benefits, operations, responsibilities, roles, interactions, etc. of other port authorities.

The port authorities visited were the Port of Long Beach, Port of Oakland, Port of Seattle, and Port of Tacoma. Each port was organized similarly with a board of commissioners, port director/executive director, numerous functional directors, and staff. Although, all ports were mostly autonomous, each had some administrative attachment to their city governments.

TF members participating in the tours were Derek Chow, Keith Regan, Baba Ha'ole, Richard Kamoe, Dayton Nakanelua, and Ku'uhaku Park. Other representatives from the State Legislature, DOT Director, and industry also participated in the port tours. A copy of the tour summary is included in Appendix C.

Questions generated by the TF for port authorities included:

- What factors led to the creation of your port authority?
- What were the issues in the transition to a port authority?
- When did these issues happen and how long did it take to resolve?
- What are the cruise ship fees?
- What are the marine firefighting capabilities?
- How does the port authority interact with other agencies and organizations?

- What is the coordination, service connections, and authorities between the port authority and other government agencies?
 - What is the Federal Aviation Administration's position on a port authority (related to those ports authorities that have both airport and harbors)?
6. **AGENCY AND ORGANIZATION POSITIONS AND CONCERNS.** Agencies and organizations represented by TF members provided positions and concerns about the creation of a Hawaii Commercial Harbors Authority. Copies of the letters and memos are contained in Appendix D. The positions ranged from support to opposition of the creation of an Authority. The following major concerns expressed are summarized as follows.
- **ORGANIZATION:**
 - Need for marine firefighting capability for vessels less than 400 gross tons.
 - Fail to see the change to a Harbor Authority as a reduction in bureaucracy.
 - The creation of a new level of government or a quasi-government agency, instead of the improvements to the existing structure, seems contradictory.
 - Maintain the Division of Boating and Ocean Recreation (DOBOR) agency under the auspices of the Department of Land and Natural Resources and not transfer DOBOR to the Authority.
 - **GOVERNANCE:**
 - Funding to support operations and infrastructure should be provided at a level that will allow the DOT Harbors Division to serve the needs of the public without interruption.
 - Other options, beyond the creation of a commercial harbors authority, may exist for DOT to consider that will address procurement and budgetary issues.
 - More focus should be placed on succession and continuity planning to ensure uninterrupted operations of the DOT Harbors Division.
 - DOT Harbors Division should request resources to bolster and grow their environmentally-focused programs.
 - DOT should explore economic development opportunities on existing property that may allow for additional revenue generation.
 - DOT should consider increasing engagement and collaboration with government, community, and industry stakeholders will further improve the understanding of the role played by Hawaii's commercial ports and may help improve relationships.
 - Improving the efficiency and effectiveness of operations at our commercial ports throughout the State of Hawaii is paramount.
 - The current governance model is not conducive to maximizing efficiency for the current harbor system. The responsibility of development, management, and operation of the State's commercial harbor system are distributed among several state agencies. Delays to the capital program and deferral of maintenance and modernization resulting from complex State approval requirements and decision-making processes are limiting capacity to accommodate demand.

- **LABOR:**
 - A completely autonomous Harbors Authority and board members with unlimited powers could negatively affect the job security of our members.
 - Exemption from the procurement process, financial solvency and myriad other circumstances could result in a once profitable operation experiencing financial shortfalls that could translate to worker layoffs or job losses.
 - Governance by a politically insulated authority is not likely to benefit our members.
 - Private entities, even partially, managing State employees and land is one step closer to complete privatization. This process could lead to a loss of civil service protection and Union recognition for workers.
 - The Port Authority should be administratively attached to the Department of Transportation and that civil service employees remaining in their existing bargaining units with no changes in rights or benefits.
 - That a perpetuity clause be included which guarantees civil service rights and benefits for any employees transferred to the Port Authority.
 - Complete adherence to collective bargaining rights as outline in Chapter 89, HRS.
 - Any new positions created as a result of the transfer, to the fullest extent possible, be civil service positions as opposed to exempt from civil service positions.
 - That the existing hiring process for civil service positions, as prescribed by the DHRD, be used for vacancies within the Port Authority.
 - Labor Union membership, with voting rights, on the Harbor Authority.
 - Public and private sector union concerns must be considered and addressed before advancing legislation.
 - The proposed SB1482 (deferred) excludes a Labor representative commission position.
 - It is important to determine the civil service status of current and future DOT-Harbors employees.
 - DOT-Harbors will need guidance on whether any newly-created positions (civil service and exempt) shall be filled by policies prescribed by DHRD.
- **ENVIRONMENT:**
 - Active pipelines shall be maintained. Unused and inactive pipelines should be drained and removed to prevent releases to harbor waters.
 - Reduce diesel particulates by requiring vessels to use cleaner fuels.
 - Need better accountability of users of the waste oil collection sites and prevent illegal dumping and releases into harbor waters.
 - DLNR recommends including aquatic biosecurity considerations, specifically processes to prevent the introduction and/or transfer of aquatic non-indigenous organisms into and around the State from ballast water and biofouling.
 - Recommend further research and consideration to the Vessel Incidental Discharge Act (VIDA) of 2018 to determine effect on commercial harbors operations and processes.

7. **CONCLUSIONS.** The House Resolution instructed the TF to study the feasibility of establishing a Hawaii Commercial Harbors Authority. In discussions, it was agreed that if there were not unanimous agreement in support of or opposition to the creation of an Authority, the TF report would reflect the viewpoints of each agency and organization. It was also discussed that there may be sufficient findings, agreements or recommendations to improve specific state laws, policies, procedures, or practices without the creation of an Authority that should be seriously considered and implemented within the existing State system and that may result in significant improvements that would achieve the streamlining and improvements intended by the creation of an Authority.

Given the viewpoints of each of the TF agencies and organizations, it cannot be concluded that a Hawaii Commercial Harbors Authority should be created at this time without addressing the remaining concerns.

8. **RECOMMENDATIONS.** The TF, as required by House Resolution No. 61, recommends that the creation of a Hawaii Commercial Harbors Authority be further evaluated based on the concerns expressed by the agencies and organizations represented by the TF.

APPENDIX A

**HOUSE RESOLUTION NO. 61, REQUESTING THE
HARBORS DIVISION OF THE DEPARTMENT OF
TRANSPORTATION TO CONVENE A TASK
FORCE TO STUDY THE FEASIBILITY OF
ESTABLISHING A HAWAII COMMERCIAL
HARBORS AUTHORITY**

HOUSE RESOLUTION

REQUESTING THE HARBORS DIVISION OF THE DEPARTMENT OF
TRANSPORTATION TO CONVENE A TASK FORCE TO STUDY THE
FEASIBILITY OF ESTABLISHING A HAWAII COMMERCIAL HARBORS
AUTHORITY.

1 WHEREAS, the State's well-being is dependent on the
2 efficient administration, development, management, and operation
3 of its ten commercial harbors and commercial maritime
4 infrastructure; and

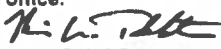
5
6 WHEREAS, the responsibility for the State's commercial
7 harbor planning, management, marketing, and capital development
8 functions is currently distributed among several agencies,
9 including but not limited to the Harbors Division of the
10 Department of Transportation, Hawaii Tourism Authority,
11 Department of Budget and Finance, Department of Human Resources
12 Development, Board of Land and Natural Resources, and Department
13 of Health; and

14
15 WHEREAS, distributing responsibility across multiple
16 agencies that may have conflicting goals and priorities results
17 in inefficiency, delayed decision-making, and reduced
18 effectiveness; and

19
20 WHEREAS, establishing a separate state entity with overall
21 jurisdiction over and responsibility for the State's commercial
22 harbors and maritime operations will make the planning and
23 development of the State's commercial harbors system and
24 maritime infrastructure more efficient; now, therefore,

25
26 BE IT RESOLVED by the House of Representatives of the
27 Thirtieth Legislature of the State of Hawaii, Regular Session
28 of 2019, that the Harbors Division of the Department of
29 Transportation is requested to establish a task force to be
30 administratively attached to the Harbors Division to study the

I do hereby certify that the within document
is a full, true and correct copy of the original
on file in this office.


Chief Clerk
House of Representatives
State of Hawaii



1 feasibility of establishing a Hawaii Commercial Harbors
2 Authority; and

3
4 BE IT FURTHER RESOLVED that the task force is requested to
5 examine the Hawaii Commercial Harbors Authority's ability to:

- 6
7 (1) Maximize the contribution of the State's commercial
8 harbors to the State's economy;
9
10 (2) Ensure dedicated expert commercial harbor leadership,
11 management continuity, and year-round decision-making,
12 consistent with industry best practices;
13
14 (3) Improve administrative efficiency by streamlining
15 administrative processes;
16
17 (4) Accelerate the planning and implementation of capital
18 improvement programs for the State's commercial
19 harbors;
20
21 (5) Increase the financial flexibility and strength of the
22 State's commercial harbors;
23
24 (6) Increase economic opportunities for the State;
25
26 (7) Increase responsiveness to consumer needs, commercial
27 opportunities, and economic demands; and
28
29 (8) Maximize job creation within the State; and
30

31 BE IT FURTHER RESOLVED that the Deputy Director of
32 Transportation, Harbors Division or the Deputy Director's
33 designee is requested to serve as chairperson of the task force
34 and to invite one representative from each of the following
35 entities to serve as task force members:

- 36
37 (1) The Hawaii Tourism Authority;
38
39 (2) The Department of Budget and Finance;
40
41 (3) The Department of Human Resources Development;
42 (4) The Department of Land and Natural Resources;



- (5) The Environmental Health Administration or Environmental Management Division of the Department of Health;
- (6) The International Longshore and Warehouse Union, Local 142;
- (7) The Hawaii Longshore Division of the International Longshore and Warehouse Union, Local 142;
- (8) United Public Workers, Local 646;
- (9) The Hawaii Government Employee Association, Local 152; and
- (10) The Hawaii Harbors Users Group; and

BE IT FURTHER RESOLVED that the task force is requested to develop and recommend legislation to establish the Hawaii Commercial Harbors Authority and to transfer to the Authority all of the authority, powers, functions, duties, and responsibilities of the Harbors Division of the Department of Transportation relating to commercial maritime and harbors, including responsibility for the development, management, operation, and maintenance of the State's commercial harbors;

BE IT FURTHER RESOLVED that the task force is requested to submit a report of its findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2020; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Deputy Director of Transportation, Harbors Division; President of the Hawaii Tourism Authority; Director of Finance; Director of Human Resources Development; Chairperson of the Board of Land and Natural Resources; Director of Health; President of the International Longshore and Warehouse Union, Local 142; Director of the Hawaii Longshore Division of the International Longshore and Warehouse Union, Local 142; Executive Director of the Hawaii



H.R. NO. 61

1 Harbors Users Group; State Director of United Public Workers,
2 Local 646; and Executive Director of the Hawaii Government
3 Employee Association, Local 152.
4
5
6

OFFERED BY:



MAR 07 2019



APPENDIX B

MONTHLY TASK FORCE MEETING SUMMARIES



Harbors Division
Department of Transportation
State of Hawaii

MEMORANDUM FOR RECORD

September 4, 2019

SUBJECT: Hawaii Commercial Harbors Authority Task Force – August 22, 2019 meeting summary

1. House Resolution No. 61 of the House of Representatives, Thirtieth Legislature, 2019 requests that the State of Hawaii DOT Harbors Division convene a task force to study the feasibility of establishing a Hawaii Commercial Harbors Authority (attached).

2. The Resolution specifies task force members from various entities. These entities and their designated representatives are as follows:

- The Hawaii Tourism Authority – Keith Regan;
- Dept of Budget and Finance – Robert Yu;
- Department of Human Resources Development – Andrew Garrett;
- Department of Land and Natural Resources – Bob Masuda;
- DOH, Environmental Health Administration – Keith Kawaoka;
- ILWU Local 142 – William “Baba” Ha’ole;
- Hawaii Division of the ILWU – Richard Kamoe;
- UPW – Dayton Nakanelua;
- HGEA – Rick Hartsell;
- Hawaii Harbors Users Group – Kuuhaku Park;
- DOT Harbors Division – Derek Chow (task force chairperson).

*Note: Numerous attempts have been made by phone and email to contact Dayton Nakanelua of the UPW. His receptionist has confirmed receipt of the message but there has not been any positive contact by Dayton with the Task Force.

3. The Task Force established 5 meetings ahead of completing a report on its findings and recommendations as follows:

- Meeting 1 (Aug 22, 10:00am-12:00noon) – introductions, purpose of the task force, and scope of activities. Sharing of materials and information.
- Meeting 2 (Sep 12, 9-11am) – Discussions of the pros and cons of a commercial harbor authority.
- Meeting 3 (Oct 10, 9-11am) – Discussions on agency/organizations points of views. Discussion of report format, study findings, conclusions, and recommendations. Suspense of agency/organization written input into report.
- Meeting 4 (Nov 14, 9-11am) – Review of draft task force report. Suspense of review comments.
- Meeting 5 (Dec 12, 9-11am) – Final review of task force report to 2020 legislature.
- Meeting 6 (Jan 9, 2020, 9-11am) – if necessary.

4. On August 22, 2019, the Task Force held its first meeting at the Harbors Division (agenda attached). In attendance were Robert Yu, Andrew Garrett, Bob Masuda, Keith Kawaoka, Baba Ha’ole, Rick Hartsell, Kuuhaku Park, and Derek Chow. Nelisa Asato also

MFR - Hawaii Commercial Harbors Authority Task Force – August 22, 2019 meeting summary

attended on behalf of Matson to capture meeting discussions. Not in attendance were Keith Regan, Richard Kamoe, and Dayton Nakanelua.

5. Port authority information gathered from the internet was discussed in the meeting. Members were encouraged to conduct their own research. The background on the genesis for the legislature's consideration to create a Hawaii commercial port authority was shared by Kuuhaku. These include streamlining the Harbors Division's budget process, improving the project development process, and improving responsiveness to industry needs. Since the Hawaii's harbor infrastructure is funded by the collection of tariffs and fees, the involvement by the State Legislature, albeit required by law, seemed to be more of a bureaucratic process than one that truly added value. The industry had formed the Hawaii Harbors User Group (HHUG) that is active in guiding the Harbors Division in the infrastructure improvement, repair, and maintenance needs throughout Hawaii's harbors.

6. Derek agreed to drill further into the information that might be available on particular ports such as the Port of Long Beach, Oakland, and Seattle on the history and transformation into a commercial port authority.

7. The TF Members were invited to participate in a tour and meetings of mainland port authorities. Again, these include Port of Long Beach, Oakland, and Seattle. Matson Shipping Company has reached out to these ports to allow Hawaii stakeholders to ask questions and find out more about the pros and cons of a port authority. The tour is scheduled for October 21-25. All participants are responsible for their airfare and hotel costs. Matson will arrange all the meetings and ground transportation.

8. Expectations of the TF for each meeting were discussed. In meeting 1, the introduction of the TF purpose, methodology, schedule, and product was discussed. For meeting 2, the focus will be to discuss the pros and cons of a port authority, and to group these pros and cons into succinct categories for prioritizing and assessment of risks and uncertainties. For meeting 3, the focus will be on individual TF Members perspectives and finalize the report organization/outline. Before meeting 4, Harbors Division will prepare the draft report that summarizes each agencies/organization official perspectives. For meeting 4, the draft report will be distributed and discussed. Before meeting 5, TF Members will provide review comments on the draft report and Harbors Division will revise the report as appropriate. For meeting 5, the final report will be distributed and discussed. There may be minor tweaks or revisions of the report to correct/clarify any agency/organization official perspective. Meeting 6 is optional and will be used if necessary to further discuss the final report prior to submittal to the State Legislature via the Governor's office.

9. Discussions of how the final report would capture the work of the TF and the individual positions of the TF members' agencies and organizations were of particular significance. At this time, the findings and recommendations of the TF are not known. However, it was discussed that the TF efforts may not result in a unanimous finding and recommendation of a Hawaii Commercial Harbors Authority. As such, it was acknowledged that the report may convey the individual agencies/organizations positions/perspectives of a Hawaii Commercial Harbors Authority. It was also acknowledged that the report may document specific recommendations on improving the Harbors operations, maintenance and project development programs as well as State of Hawaii policies and procedures in the absence of a Hawaii Commercial Harbors Authority.

*MFR - Hawaii Commercial Harbors Authority Task Force – August 22, 2019 meeting
summary*

10. The meeting was adjourned without any outstanding items except as noted above.

A handwritten signature in black ink, appearing to read 'Derek J. Chow', with a stylized, cursive script.

DEREK J. CHOW
Deputy Director, Harbors Division

----- END -----



Harbors Division
Department of Transportation
State of Hawaii

MEMORANDUM FOR RECORD

September 18, 2019

SUBJECT: Hawaii Commercial Harbors Authority Task Force – September 12, 2019 meeting summary

1. House Resolution No. 61 of the House of Representatives, Thirtieth Legislature, 2019 requests that the State of Hawaii DOT Harbors Division convene a task force to study the feasibility of establishing a Hawaii Commercial Harbors Authority.

2. On September 12, 2019, the Task Force (TF) held its second of five meetings at the Harbors Division (agenda attached). In attendance were Keith Regan, Andrew Garrett, Bob Masuda, Keith Kawaoka, Alfred Lardizabal (in place of Dayton Nakanelua), Rick Hartsell, Nelisa Asato (in place of Kuuhaku Park), and Derek Chow. Not in attendance/represented were Robert Yu, Baba Ha'ole, and Richard Kamoe.

3. The agenda items for Meeting 2 were reviewed. Also reviewed agenda items for Meeting 3 and noted putting together TF questions for the port authority tour. There were no requests to change the Meeting 1 summary. Actions taken since the last meeting were discussed. The port authority tour is scheduled for the week of October 21-25. All participants are responsible for the costs of airfare and hotels. Matson will be arranging all ground logistics and meetings. Keith Regan indicated affirmatively that he will be participating in the port authority tour; Andrew indicated he might participate; Bob has requested approval for his participation [later noted by email that he will not be able to participate]; Al indicated someone from UPW might participate. Matson needs a firm headcount for logistics planning and to block hotel rooms. Information downloaded from the websites for the Long Beach, Oakland, and Seattle port authorities were distributed by email to the TF two days ago. The TF asked for a copy of the Bill on the Hawaii Commercial Harbors Authority that did not pass out of the legislature last session (see attached).

4. Derek provided a short briefing of the Hawaii Harbor System (see attached) to help the TF understand layout of the harbors.

5. Information downloaded from the web about the Long Beach, Oakland and Seattle/Tacoma port authorities were reviewed and discussed. There was little information on the history of the port authorities and especially about the challenges, decisions, and formation. It was clarified that the UPW and HGEA represented State employees, while the ILWU represented longshoremen, clerks, and others that worked on the docks. The primary labor group to be affected by the conversion into a commercial harbors authority are State employees. Longshoremen, clerks, and other dock workers have contracts with the shipping companies, which likely would not change.

6. The TF brainstormed pros and cons of creating a Hawaii Commercial Harbors Authority. Al handed out UPW concerns with an authority (attached).

Pros:

- Eliminating politics in decision making.
- Independence.

MFR - Hawaii Commercial Harbors Authority Task Force – September 12, 2019 meeting summary

- Upgrade of neighbor island police.
- Consistent leadership.
- Leadership selected based on qualifications and not just political appointees.

Cons:

- None were discussed.

7. TF questions to be taken on the port authority tour:
- What factors led to the creation of your port authority?
 - What were the issues in the transition to a port authority?
 - When did these issues happen and how long did it take to resolve?
 - What are the cruise ship fees?
 - What is the marine fire-fighting capabilities?
 - How does the port authority interact with other agencies and organizations?
 - What is the coordination, service connections, and authorities between the port authority and other government agencies?
 - What is FAA's position on a port authority (related to those ports authorities that have both airport and harbors)?

8. Derek again clarified that the report will document each agencies and organization's official position on the conversation to a Hawaii Commercial Harbors Authority. He stated it is too presumptive to expect all agencies and organizations to affirmatively support the conversion without concerns, conditions, or reservations. The report will summarize all the input gathered during the TF meetings and discussions, state the findings and conclusions, and make recommendations on next actions to the Legislature.

9. The agenda for Meeting 3 on October 10, 2019 was reviewed, which includes establishing agency/organization points of views, prioritize the risks/uncertainties/concerns with the conversion, discuss the report format, and further develop questions for the port authority tour. The report summary will be prepared by Harbors Division, with input from all TF members.

10. The meeting was adjourned reminding TF members to provide any additional input on the pros and cons.



DEREK J. CHOW
Deputy Director, Harbors Division

----- END -----



Harbors Division
Department of Transportation
State of Hawaii

Meeting 1 (Aug 22, 10:00am-12:00noon) – introductions, purpose of the task force, and scope of activities. Sharing of materials and information.

Meeting 2 (Sep 12, 9-11am) – Discussions of the pros and cons of a commercial harbor authority.

Meeting 3 (Oct 10, 9-11am) – Discussions on agency/organizations points of views. Discussion of report format, study findings, conclusions, and recommendations. Suspense of agency/organization written input into report.

Meeting 4 (Nov 14, 9-11am) – Review of draft task force report. Suspense of review comments.

Meeting 5 (Dec 12, 9-11am) – Final review of task force report to 2020 legislature.

Meeting 6 (Jan 9, 2020, 9-11am) – if necessary.

AGENDA

Meeting 1 – Introductions, purpose of task force, and scope of activities. Sharing of materials and information.

- I. INTRODUCTIONS
- II. PURPOSE OF MEETING
- III. PURPOSE OF TASK FORCE
- IV. SCOPE OF ACTIVITIES
- V. INFORMATION DISTRIBUTED
- VI. NEXT STEPS, PREPARATION FOR MEETING 2

Meeting 2 – Discussions of the pros and cons of a commercial harbor authority.

- I. REVIEW OF ACTIONS SINCE LAST MEETING
- II. *BRIEFING ON HAWAII'S HARBOR SYSTEM.*
- III. BRAINSTORMING OF PROS OF A COMMERCIAL HARBOR AUTHORITY.
- IV. BRAINSTORMING OF CONS OF A COMMERCIAL HARBOR AUTHORITY.
- V. GROUPING AND RANKING OF PROS AND CONS
- VI. BENEFICIARIES AND THOSE IMPACTED BY PROS AND CONS
- VII. NEXT STEPS, PREPARATION FOR MEETING 3

Meeting 3 - Discussions on agency/organizations points of views. Discussion of report format, study findings, conclusions, and recommendations. Suspense of agency/organization written input into report.

- I. REVIEW OF ACTIONS SINCE LAST MEETING
- II. AGENCY/ORGANIZATIONS POINTS OF VIEWS
- III. RISKS AND UNCERTAINTIES OF TRANSFORMATION TO A COMMERCIAL HARBOR AUTHORITY
- IV. RANKING OF RISKS AND UNCERTAINTIES
- V. REPORT FORMAT AND CONTENT
- VI. *PREPARE QUESTIONS FOR PORT AUTHORITY TOUR*
- VII. NEXT STEPS:
 - AGENCY/ORGANIZATIONS WRITTEN POSITION ON A COMMERCIAL HARBOR AUTHORITY – SUSPENSE TO TASK FORCE CHAIR ON OCTOBER 31, 2019
 - PREPARATION FOR MEETING 4 – REVIEW DRAFT REPORT

Meeting 4 - Review of draft task force report. Suspense of review comments.

- I. REVIEW OF ACTIONS SINCE LAST MEETING
- II. DISTRIBUTION/DISCUSSIONS OF DRAFT REPORT
- III. REVIEW COMMENTS TO DRAFT REPORT AND DISCUSS REPORT REVISION
- IV. REVIEW COMMENTS SUSPENSE TO TASK FOR CHAIR ON NOVEMBER 27, 2019
- V. NEXT STEPS
 - REVIEW COMMENTS SUBMISSION
 - REPORT REVISION
 - PREPARE FOR MEEETING 5

Meeting 5 - Final review of task force report to 2020 legislature.

- I. REVIEW OF ACTIONS SINCE LAST MEETING
- II. DISCUSSION OF FINAL REPORT
- III. SUPPORT OF REPORT
- IV. ACTIONS TO TRANSMIT TO LEGISLATURE

Representatives on the task force are:

Keith Regan, The Hawaii Tourism Authority;

Robert Yu, Dept of Budget and Finance;

Andrew Garrett, Department of Human Resources Development;

Bob Masuda, Department of Land and Natural Resources;

Keith Kawaoka, DOH, Environmental Health Administration;

William "Baba" Ha'ole, ILWU Local 142

Richard Kamoe, Hawaii Division of the ILWU;

Dayton Nakanelua, UPW;

Rick Hartsell, HGEA;

Kuuhaku Park, Hawaii Harbors Users Group;

Derek Chow, DOT Harbors Division (task force chairperson).

JAN 24 2019

A BILL FOR AN ACT

RELATING TO THE HAWAII COMMERCIAL HARBORS AUTHORITY.

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

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



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

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

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



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

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

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

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

21 "CHAPTER



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HAWAII COMMERCIAL HARBORS AUTHORITY

PART I. GENERAL PROVISIONS

§ -1 Definitions. As used in this chapter:

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

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

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

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

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

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

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



1 (1) Develop and implement management structures, policies,
2 and procedures based on commercial harbors industry
3 best practices;

4 (2) Efficiently develop, manage, operate, and maintain the
5 State's commercial harbors and maritime facilities;
6 and

7 (3) Administer the provisions of chapters 102, 266, and
8 268 that are applicable to commercial harbors and
9 maritime facilities.

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

17 (b) The powers of the authority shall be vested in and
18 exercised by a board of directors, which shall consist of nine
19 voting members who shall be appointed by the governor; provided
20 that three members shall be selected from a list of persons
21 nominated by the speaker of the house of representatives, and



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1 three members shall be selected from a list of persons nominated
2 by the president of the senate; provided further that the
3 counties of Hawaii, Kauai, and Maui, and the city and county of
4 Honolulu shall each be represented by at least one board member
5 who is a resident of the respective county. All members shall
6 be appointed for terms of four years; provided that the governor
7 shall stagger the initial terms pursuant to section 26-34(a).

8 (c) Members shall have relevant business and management
9 experience, including experience in one or more of the following
10 disciplines:

- 11 (1) Commercial maritime operations;
- 12 (2) Maritime law;
- 13 (3) Non-maritime harbor business;
- 14 (4) Commercial development
- 15 (5) Construction management;
- 16 (6) Financial planning;
- 17 (7) Budgeting;
- 18 (8) Hospitality;
- 19 (9) Tourism;
- 20 (10) Marketing; and
- 21 (11) Cultural traditions and practices of native Hawaiians.



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

4 (d) The governor may appoint up to two members without
5 regard to the requirement in section 78-1(b) that appointive
6 officers be residents of the State at the time of their
7 appointment; provided that no more than two non-residents shall
8 serve as members of the board at any time.

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

13 (f) No board member appointed under this section shall be
14 an officer or employee of the State or a county.

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

19 (h) The authority shall be headed by a single executive to
20 be known as the chief executive officer of the Hawaii commercial
21 harbors authority, who shall:



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- 1 (1) Not be a member of the board;
- 2 (2) Be exempt from chapters 76 and 89; and
- 3 (3) Receive a salary fixed by the board.
- 4 (i) The chief executive officer:
 - 5 (1) Shall be selected based on criteria approved by the
 - 6 board, including experience in commercial harbor
 - 7 management at an executive level at a large-size or
 - 8 medium-size commercial harbor within the United
 - 9 States, management of large-scale capital programs,
 - 10 and domestic and international harbor and maritime
 - 11 development;
 - 12 (2) Shall be appointed by an affirmative vote of not less
 - 13 than five members of the board;
 - 14 (3) Shall be employed subject to a formal contract, the
 - 15 terms of which shall be approved by the board;
 - 16 provided that the terms shall include provisions for
 - 17 the removal of the chief executive officer whether
 - 18 with or without cause;
 - 19 (4) May be removed from office only by a vote of not less
 - 20 than five members of the board; provided that the



basis for removal is consistent with the terms of the
chief executive officer's employment contract;

(5) Shall have the powers as described in this chapter and
the provisions of chapters 102, 266, and 268 that are
applicable to commercial harbors and maritime
facilities, as may be delegated by the board;

(6) Except when excused by the board, shall attend all
meetings of the board, keep a record of the
proceedings, and maintain and be the custodian of the
official seal of the authority and all books, records,
documents, and papers filed with the authority;

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

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

(9) Shall serve as chief procurement officer of the
authority; and

(10) Shall do all things necessary, as directed by the
board, to carry out the powers and duties conferred
upon the authority by this chapter and the provisions



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1 of chapters 102, 266, and 268 that are applicable to
2 commercial harbors and maritime facilities.

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

10 § -3 Powers; generally. (a) The Hawaii commercial
11 harbors authority, by and through its board:

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

18 (2) Shall provide as appropriate for the arrival,
19 departure, mooring, and servicing of vessels, and the
20 loading and unloading of passengers and cargo at all



commercial harbors and maritime facilities under the control of the authority;

(3) Shall establish performance targets and performance standards for all state commercial harbors and marine facilities to achieve the highest levels of customer service;

(4) Shall ensure that appropriate mission statements, business plans, minimum development standards, and strategic goals are established and that progress toward their accomplishment is regularly assessed and reported;

(5) Shall develop an organization and management structure to best accomplish the goals of the Hawaii commercial harbors system and the authority;

(6) Shall have an official seal and may alter the official seal at its pleasure;

(7) May make, execute, or assume contracts, leases, and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter and the provisions of chapters 102, 266, and



268 that are applicable to commercial harbors and
maritime facilities;

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

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

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

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



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

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

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

15 (14) Shall take all actions necessary under emergencies
16 declared by the governor;

17 (15) Shall fix, impose, prescribe, and collect rates,
18 rentals, fees, or charges for the lease, use, and
19 services of its maritime facilities at least
20 sufficient to pay the costs of operation, maintenance,
21 and repair, if any, and the required payments of the



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

6 (16) May allot any and all commercial harbor and maritime
7 facilities revenue and issue revenue bonds, refunding
8 revenue bonds, special facility revenue bonds, bond
9 anticipation notes, and other lawfully authorized
10 obligations of the State in its name and secured by
11 the revenue, or user taxes, or any combination of
12 both, of an undertaking or loan program pursuant to
13 chapter 39, but not in excess of the principal amounts
14 as are necessary for its purposes;

15 (17) May invest and secure its moneys;

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

18 (19) May do any and all things necessary to exercise the
19 powers and perform the duties conferred upon the
20 authority by this chapter and the provisions of



1 chapters 102, 266, and 268 that are applicable to
2 commercial harbors and maritime facilities.

3 (b) The authority shall not be subject to chapters 36, 37,
4 38, and 40, except for section 36-29 and as otherwise provided
5 in this chapter and chapters 266 and 268.

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

18 The board, upon the advice of its attorney, may arbitrate,
19 compromise, or settle any claim, action, or suit brought against
20 the authority pursuant to this section. Any claim compromised
21 or settled under this subsection shall be payable solely from



1 the moneys and property of the authority and shall not
2 constitute a general obligation of the State or be secured
3 directly or indirectly by the full faith and credit of the State
4 or the general credit of the State or by any revenue or taxes of
5 the State. Nothing in this subsection shall preclude the board
6 from requesting legislative appropriations to fund the
7 settlement of any claim or judgment against the authority or its
8 officers, employees, or agents.

9 Rights and remedies conferred by this section shall not be
10 construed to authorize any other claim, suit, or action against
11 the State. In addition, a judgment, compromise, or settlement
12 in an action brought against the authority under this section
13 shall constitute a complete bar to any action brought by the
14 claimant, by reason of the same subject matter, against the
15 State or an officer or employee of the authority.

16 (d) The authority shall be a "jurisdiction" and an
17 "appointing authority" under chapter 76, and an "appointing
18 authority" and an "appropriate authority" for those of its
19 officers and employees who are excluded employees under chapter
20 89C. In addition to its chief executive officer, the authority
21 may employ executive officers and a chief procurement officer



1 appointed by the chief executive officer who are qualified to
2 fill positions established in the bylaws of the authority
3 adopted by the board of directors, to perform functions and
4 exercise powers assigned by the bylaws or delegated by the board
5 or the chief executive officer. The other executive officers of
6 the authority and up to additional specially qualified
7 employees appointed by the chief executive officer shall be
8 exempt from chapters 76 and 89. All other persons employed by
9 the authority shall be subject to chapters 76 and 89, and rules
10 adopted to implement those provisions, unless expressly exempted
11 from the civil service under chapter 76 or excluded from
12 collective bargaining under chapter 89. The officers and
13 personnel of the authority shall be included in all benefit
14 programs applicable to officers and employees of the State.

15 (e) The authority and its corporate existence shall
16 continue until terminated by law; provided that no termination
17 shall take effect as long as bonds or other obligations issued
18 or assumed by the authority are outstanding, unless adequate
19 provision has been made for the payment or satisfaction thereof.
20 Upon termination of the existence of the authority, all of the



1 rights and properties of the authority then remaining shall pass
2 to and vest in the State in the manner prescribed by law.

3 (f) The authority shall be subject to chapter 103D;
4 provided that the chief executive officer shall serve as chief
5 procurement officer pursuant to sections -2(i)(9) and
6 103D-203.

7 **PART II. BUDGET AND FINANCE**

8 § -4 **Exemptions.** The harbor special fund shall be
9 exempt from chapters 36, 37, and 40.

10 § -5 **Fiscal provisions.** (a) The board shall establish
11 guidelines for preparing the authority's annual operating and
12 capital budget proposals that take into account anticipated
13 receipts, surpluses, reserves, and funds from any other source,
14 on deposit in or available for deposit into the harbor special
15 fund or any other special or revolving fund that the legislature
16 may establish for the authority.

17 (b) The authority shall submit its biennium and
18 supplemental operating and capital budget proposals to the
19 department of transportation, which shall transmit those budget
20 proposals to the governor.



1 (c) Along with its budget proposals, the authority shall
2 provide an annual report of the income to and the expenditures
3 from the harbor special fund and any other special or revolving
4 fund administered by the authority. The authority shall provide
5 a copy of its annual report to the legislature at least twenty
6 days prior to the convening of each regular session.

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

10 (e) Notwithstanding sections 37-71 and 37-72, the governor
11 shall include in the executive budget one lump sum for each
12 means or source of funds for the authority's operating and
13 capital budget proposals in the amounts specified in the budget
14 proposals transmitted to the governor by the department of
15 transportation pursuant to subsection (b).

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

19 § -6 **Budget oversight.** The authority's operating and
20 capital budgets shall not be subject to review or approval by



1 the governor or any agency of the executive branch, except where
2 state general funds are requested.

3 **§ -7 Accounts; depositories.** (a) Appropriations for
4 the authority shall not be subject to any allotment system or
5 requirements. The director of finance shall notify the
6 authority and the comptroller that all of the appropriations for
7 the authority for the fiscal year have been allotted and are
8 available for expenditure as soon as possible, and in no event
9 more than three business days, after the general or supplemental
10 appropriations act is effective.

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

17 **§ -8 Expenditures in excess of appropriations.** If in
18 any fiscal year, the amount of revenues deposited into the
19 harbor special fund exceeds the amount appropriated from that
20 fund for that year, the board of directors of the authority may
21 approve expenditures in excess of the amount appropriated, up to



1 the amount by which revenues for that fund exceed the
2 appropriations from that fund for a fiscal year.

3 § -9 **Issuance of bonds.** On an annual basis, and upon
4 request of the authority, the legislature shall authorize one
5 lump sum for each means or source of funds for each of the
6 following types of bonds to be issued by the authority: revenue
7 bonds, refunding revenue bonds, and special facility revenue
8 bonds.

9 § -10 **Audits.** The auditor shall conduct management and
10 financial audits of the authority for fiscal year 2024 and every
11 second year thereafter."

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

14 "§26-19 **Department of transportation.** The department of
15 transportation shall be headed by a single executive to be known
16 as the director of transportation. The department shall
17 establish, maintain, and operate transportation facilities of
18 the State, including highways, airports, harbors[7] other than
19 commercial harbors and commercial maritime activities, and such
20 other transportation facilities and activities as may be
21 authorized by law.



1 The department shall plan, develop, promote, and coordinate
2 various transportation systems management programs that shall
3 include, but not be limited to, alternate work and school hours
4 programs, bicycling programs, and ridesharing programs.

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

13 The functions and authority heretofore exercised by the
14 department of public works with respect to highways are
15 transferred to the department of transportation established by
16 this chapter.

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



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

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

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

11 (1) By the public utilities commission, the labor and
12 industrial relations appeals board, and the Hawaii
13 labor relations board;

14 (2) By any court or judicial or legislative office of the
15 State; provided that if the attorney general is
16 requested to provide representation to a court or
17 judicial office by the chief justice or the chief
18 justice's designee, or to a legislative office by the
19 speaker of the house of representatives and the
20 president of the senate jointly, and the attorney
21 general declines to provide such representation on the



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- 1 grounds of conflict of interest, the attorney general
2 shall retain an attorney for the court, judicial, or
3 legislative office, subject to approval by the court,
4 judicial, or legislative office;
- 5 (3) By the legislative reference bureau;
- 6 (4) By any compilation commission that may be constituted
7 from time to time;
- 8 (5) By the real estate commission for any action involving
9 the real estate recovery fund;
- 10 (6) By the contractors license board for any action
11 involving the contractors recovery fund;
- 12 (7) By the office of Hawaiian affairs;
- 13 (8) By the department of commerce and consumer affairs for
14 the enforcement of violations of chapters 480 and
15 485A;
- 16 (9) As grand jury counsel;
- 17 (10) By the Hawaii health systems corporation, or its
18 regional system boards, or any of their facilities;
- 19 (11) By the auditor;
- 20 (12) By the office of ombudsman;
- 21 (13) By the insurance division;



1 (14) By the University of Hawaii;

2 (15) By the Kahoolawe island reserve commission;

3 (16) By the division of consumer advocacy;

4 (17) By the office of elections;

5 (18) By the campaign spending commission;

6 (19) By the Hawaii tourism authority, as provided in
7 section 201B-2.5;

8 (20) By the division of financial institutions;

9 (21) By the office of information practices; ~~[ex]~~

10 (22) By the Hawaii commercial harbors authority; or

11 ~~[(+22)]~~ (23) By a department, if the attorney general, for
12 reasons deemed by the attorney general to be good and
13 sufficient, declines to employ or retain an attorney
14 for a department; provided that the governor waives
15 the provision of this section."

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

17 "(c) Every attorney employed by any department on a full-
18 time basis, except an attorney employed by the public utilities
19 commission, the labor and industrial relations appeals board,
20 the Hawaii labor relations board, the office of Hawaiian
21 affairs, the Hawaii health systems corporation or its regional



1 system boards, the department of commerce and consumer affairs
2 in prosecution of consumer complaints, insurance division, the
3 division of consumer advocacy, the University of Hawaii, the
4 Hawaii tourism authority as provided in section 201B-2.5, the
5 office of information practices, the Hawaii commercial harbors
6 authority, or as grand jury counsel, shall be a deputy attorney
7 general."

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

10 "(b) Any provision in this section to the contrary
11 notwithstanding, the Hawaii commercial harbors authority, the
12 University of Hawaii (as to casualty insurance risks only), the
13 Research Corporation of the University of Hawaii (as to casualty
14 insurance risks only), the public health facilities of the
15 department of health (with respect to medical malpractice risks
16 only), and the Hawaii health systems corporation and its
17 regional system boards shall be exempt from the requirements of
18 this chapter."

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



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1 "Jurisdiction" means the State, the city and county of
2 Honolulu, the county of Hawaii, the county of Maui, the county
3 of Kauai, the judiciary, the department of education, the
4 University of Hawaii, the Hawaii commercial harbors authority,
5 and the Hawaii health systems corporation."

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

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

12 (1) Commissioned and enlisted personnel of the Hawaii
13 National Guard as such, and positions in the Hawaii
14 National Guard that are required by state or federal
15 laws or regulations or orders of the National Guard to
16 be filled from those commissioned or enlisted
17 personnel;

18 (2) Positions filled by persons employed by contract where
19 the director of human resources development has
20 certified that the service is special or unique or is
21 essential to the public interest and that, because of



1 circumstances surrounding its fulfillment, personnel
2 to perform the service cannot be obtained through
3 normal civil service recruitment procedures. Any such
4 contract may be for any period not exceeding one year;

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

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

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

16 (6) Positions filled by popular vote;

17 (7) Department heads, officers, and members of any board,
18 commission, or other state agency whose appointments
19 are made by the governor or are required by law to be
20 confirmed by the senate;



1 (8) Judges, referees, receivers, masters, jurors, notaries
2 public, land court examiners, court commissioners, and
3 attorneys appointed by a state court for a special
4 temporary service;

5 (9) One bailiff for the chief justice of the supreme court
6 who shall have the powers and duties of a court
7 officer and bailiff under section 606-14; one
8 secretary or clerk for each justice of the supreme
9 court, each judge of the intermediate appellate court,
10 and each judge of the circuit court; one secretary for
11 the judicial council; one deputy administrative
12 director of the courts; three law clerks for the chief
13 justice of the supreme court, two law clerks for each
14 associate justice of the supreme court and each judge
15 of the intermediate appellate court, one law clerk for
16 each judge of the circuit court, two additional law
17 clerks for the civil administrative judge of the
18 circuit court of the first circuit, two additional law
19 clerks for the criminal administrative judge of the
20 circuit court of the first circuit, one additional law
21 clerk for the senior judge of the family court of the



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

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

19 (11) (A) Teachers, principals, vice-principals, complex
20 area superintendents, deputy and assistant
21 superintendents, other certificated personnel,



1 not more than twenty noncertificated

2 administrative, professional, and technical

3 personnel not engaged in instructional work;

4 (B) Effective July 1, 2003, teaching assistants,
5 educational assistants, bilingual/bicultural
6 school-home assistants, school psychologists,
7 psychological examiners, speech pathologists,
8 athletic health care trainers, alternative school
9 work study assistants, alternative school
10 educational/supportive services specialists,
11 alternative school project coordinators, and
12 communications aides in the department of
13 education;

14 (C) The special assistant to the state librarian and
15 one secretary for the special assistant to the
16 state librarian; and

17 (D) Members of the faculty of the University of
18 Hawaii, including research workers, extension
19 agents, personnel engaged in instructional work,
20 and administrative, professional, and technical
21 personnel of the university;



- 1 (12) Employees engaged in special, research, or
2 demonstration projects approved by the governor;
- 3 (13) (A) Positions filled by inmates, patients of state
4 institutions, persons with severe physical or
5 mental disabilities participating in the work
6 experience training programs;
- 7 (B) Positions filled with students in accordance with
8 guidelines for established state employment
9 programs; and
- 10 (C) Positions that provide work experience training
11 or temporary public service employment that are
12 filled by persons entering the workforce or
13 persons transitioning into other careers under
14 programs such as the federal Workforce Investment
15 Act of 1998, as amended, or the Senior Community
16 Service Employment Program of the Employment and
17 Training Administration of the United States
18 Department of Labor, or under other similar state
19 programs;
- 20 (14) A custodian or guide at Iolani Palace, the Royal
21 Mausoleum, and Hulihee Palace;



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

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



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1 approval of the governor; an administrative assistant
2 to the state librarian; and an administrative
3 assistant to the superintendent of education;

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

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

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

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

17 (19) Household employees at the official residence of the
18 president of the University of Hawaii;

19 (20) Employees in the department of education engaged in
20 the supervision of students during meal periods in the
21 distribution, collection, and counting of meal



1 tickets, and in the cleaning of classrooms after
2 school hours on a less than half-time basis;

3 (21) Employees hired under the tenant hire program of the
4 Hawaii public housing authority; provided that not
5 more than twenty-six per cent of the authority's
6 workforce in any housing project maintained or
7 operated by the authority shall be hired under the
8 tenant hire program;

9 (22) Positions of the federally funded expanded food and
10 nutrition program of the University of Hawaii that
11 require the hiring of nutrition program assistants who
12 live in the areas they serve;

13 (23) Positions filled by persons with severe disabilities
14 who are certified by the state vocational
15 rehabilitation office that they are able to perform
16 safely the duties of the positions;

17 (24) The sheriff;

18 (25) A gender and other fairness coordinator hired by the
19 judiciary;

20 (26) Positions in the Hawaii National Guard youth and adult
21 education programs;



(27) In the state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts; ~~and~~

(28) Administrative appeals hearing officers in the department of human services~~[-]~~; and

(29) The chief executive officer of the Hawaii commercial harbors authority, all other executive officers the chief executive officer may appoint pursuant to section -3(d), and positions that the chief executive officer is authorized to fill by appointing specially qualified personnel pursuant to section -3(d).

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

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

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



1 ""Appropriate authority" means the governor, the respective
2 mayors, the chief justice of the supreme court, the board of
3 education, the board of regents, the state public charter school
4 commission, the Hawaii health systems corporation board, the
5 auditor, the ombudsman, the board of directors of the Hawaii
6 commercial harbors authority, and the director of the
7 legislative reference bureau. These individuals or boards may
8 make adjustments for their respective excluded employees."

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

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

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

- 14 (1) The judiciary--the administrative director of the
15 courts;
16 (2) The senate--the president of the senate;
17 (3) The house of representatives--the speaker of the house
18 of representatives;
19 (4) The office of Hawaiian affairs--the chairperson of the
20 board;



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

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

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

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

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

2. By amending subsection (c) to read:

"(c) For purposes of applying this chapter to the judiciary, houses of the legislature, office of Hawaiian affairs, University of Hawaii, department of education, Hawaii commercial harbors authority, remaining departments of the



1 executive branch and all governmental bodies administratively
2 attached to them, and the several counties, unless otherwise
3 expressly provided, "State" shall mean "judiciary", "state
4 senate", "state house of representatives", "office of Hawaiian
5 affairs", "University of Hawaii", "department of education",
6 "Hawaii commercial harbors authority", "executive branch",
7 "county", "board of water supply" or "department of water
8 supply", and "semi-autonomous public transit agency",
9 respectively."

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

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



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- 1 (1) Lands designated in section 203 of the Hawaiian Homes
2 Commission Act, 1920, as amended;
- 3 (2) Lands set aside pursuant to law for the use of the
4 United States;
- 5 (3) Lands being used for roads and streets;
- 6 (4) Lands to which the United States relinquished the
7 absolute fee and ownership under section 91 of the
8 Hawaiian Organic Act prior to the admission of Hawaii
9 as a state of the United States unless subsequently
10 placed under the control of the board of land and
11 natural resources and given the status of public lands
12 in accordance with the state constitution, the
13 Hawaiian Homes Commission Act, 1920, as amended, or
14 other laws;
- 15 (5) Lands to which the University of Hawaii holds title;
- 16 (6) Lands to which the Hawaii housing finance and
17 development corporation in its corporate capacity
18 holds title;
- 19 (7) Lands to which the Hawaii community development
20 authority in its corporate capacity holds title;



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



1 (13) Lands to which the Hawaii commercial harbors authority
2 holds title;

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

13 SECTION 11. Section 171-64.7, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) This section applies to all lands or interest therein
16 owned or under the control of state departments and agencies
17 classed as government or crown lands previous to August 15,
18 1895, or acquired or reserved by the government upon or
19 subsequent to that date by purchase, exchange, escheat, or the
20 exercise of the right of eminent domain, or any other manner,
21 including accreted lands not otherwise awarded, submerged lands,



1 and lands beneath tidal waters that are suitable for
2 reclamation, together with reclaimed lands that have been given
3 the status of public lands under this chapter, including:

4 (1) Land set aside pursuant to law for the use of the
5 United States;

6 (2) Land to which the United States relinquished the
7 absolute fee and ownership under section 91 of the
8 Organic Act prior to the admission of Hawaii as a
9 state of the United States;

10 (3) Land to which the University of Hawaii holds title;

11 (4) Land to which the Hawaii housing finance and
12 development corporation in its corporate capacity
13 holds title;

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

18 (6) Land that is set aside by the governor to the Aloha
19 Tower development corporation; or land to which the
20 Aloha Tower development corporation holds title in its
21 corporate capacity;



(7) Land that is set aside by the governor to the agribusiness development corporation; or land to which the agribusiness development corporation in its corporate capacity holds title;

(8) Land to which the Hawaii technology development corporation in its corporate capacity holds title; [and]

(9) Land to which the department of education holds title[-]; and

(10) Land to which the Hawaii commercial harbors authority holds title."

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

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



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

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

14 (2) Provide for all expenses of operation and maintenance
15 of the properties, including reserves therefor, and
16 the expenses of the department in connection with
17 operation and maintenance; and

18 (3) Reimburse the general fund of the State for all bond
19 requirements for general obligation bonds which are or
20 have been issued for harbor or wharf improvements, or
21 to refund any of the improvement bonds, excluding



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

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



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

5 SECTION 14. The Hawaii commercial harbors authority shall
6 succeed to the jurisdiction, powers, and responsibilities of the
7 department of transportation over commercial maritime
8 operations, commercial harbors, and commercial maritime
9 facilities, including all of the functions relating to
10 commercial harbors and commercial maritime operations performed
11 by the department and its harbors division, on the transfer
12 completion date published by the Hawaii commercial harbors
13 authority pursuant to section 14(b) of this Act, which date
14 shall be no later than December 31, 2022.

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



1 SECTION 15. (a) Not prior to January 1, 2020, but no
2 later than September 30, 2020, the governor shall designate a
3 representative who shall facilitate the Hawaii commercial
4 harbors authority's orderly succession to the jurisdiction,
5 powers, functions, rights, benefits, obligations, assets,
6 liabilities, funds, accounts, contracts, and all other things
7 currently held, used, incurred, or performed by the department
8 of transportation, its director and staff, and its harbors
9 division, in administering and exercising the authority and
10 fulfilling the responsibilities authorized or conferred upon the
11 department of transportation and the director of transportation
12 by chapters 102, 266, and 268, Hawaii Revised Statutes.

13 Not prior to October 1, 2020, but no later than
14 December 31, 2020, the governor shall appoint the members of the
15 board of directors of the Hawaii commercial harbors authority.

16 To facilitate the Hawaii commercial harbors authority's
17 timely assumption of the department of transportation's
18 authority and responsibilities, including all of the
19 department's associated bonds, notes, and obligations as
20 described in paragraph (7), the department of transportation,
21 department of accounting and general services, department of



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1 human resources development, state procurement office, and any
2 other state department or agency, if requested by the authority,
3 shall enter into a memorandum of understanding with the
4 authority to:

5 (1) Provide administrative support services for the
6 authority pending the transfer of employees from the
7 department of transportation to the Hawaii commercial
8 harbors authority pursuant to section 18 of this Act;

9 (2) Develop a policy and set of robust procurement
10 procedures that foster accountability, transparency,
11 and oversight of contracts, to include compliance with
12 federal procurement requirements;

13 (3) Assist the authority with the organization of its
14 human resources development functions, including
15 establishing:

16 (A) A human resources office;

17 (B) The authority's civil service and civil service
18 positions, and the classification system, merit
19 appeals board, recruitment system, performance
20 appraisal system, and the administrative rules,
21 policies, standards, and procedures, including



internal complaint procedures, adopted to support
its civil service; and

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

(4) Assist the authority in establishing its accounting,
budgeting, fund management, and communication and
electronic information systems, and creating
appropriate interfaces between the authority's
accounting, budgeting, fund management, communication,
and electronic information systems, and those of the
department of transportation, and other state
agencies;

(5) Assist the authority in identifying the plans and
reports that departments and agencies administratively
attached to a department are required to prepare for
the governor, the legislature, or another state
department or agency with respect to commercial
maritime activities or the State's commercial harbor
system; determining whether those plans and reports



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

5 (6) Expeditiously transfer or otherwise facilitate the
6 authority's acquisition or assumption of all of the
7 powers, functions, rights, benefits, obligations,
8 assets, funds, accounts, contracts, and all other
9 things held, used, incurred, or performed by the
10 department of transportation, its director and staff,
11 and its harbors division, in exercising the authority
12 and fulfilling and administering the responsibilities
13 authorized or conferred upon the department of
14 transportation and the director of transportation by
15 chapters 102, 266, and 268, Hawaii Revised Statutes;
16 and

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

20 (b) As soon as feasible, the Hawaii commercial harbors
21 authority, with the concurrence of the director of



1 transportation and the governor, shall establish the transfer
2 completion date, which shall be no later than December 31, 2022,
3 and publish notice of the transfer completion date by:

4 (1) Publishing the notice in a daily publication of
5 statewide circulation pursuant to section 1-28.5,
6 Hawaii Revised Statutes;

7 (2) Posting a copy of the notice on an electronic calendar
8 on a website maintained by the State;

9 (3) Providing a copy of the notice to the department of
10 transportation, the Secretaries of the United States
11 Department of Transportation and Department of
12 Defense, the Commandant of the United States Coast
13 Guard, and the head of every other state department;
14 and

15 (4) Posting the notice prominently at every commercial
16 harbor and commercial maritime facility in the State.

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

19 SECTION 16. It is the intent of this Act not to jeopardize
20 the receipt of any federal aid nor to impair any existing
21 federal income tax exemption to, security interest of, or



1 obligation of the State or any agency thereof to the holders of
2 any bonds or other obligations issued by the State or by any
3 department or agency of the State, and to the extent, and only
4 to the extent necessary to effectuate this intent, the governor
5 may modify the strict provisions of this Act, but shall promptly
6 report any modification with reasons therefor to the legislature
7 at its next session thereafter for review by the legislature.

8 SECTION 17. This Act does not affect rights and duties
9 that matured, penalties that were incurred, and proceedings that
10 were begun before its effective date. The department of
11 transportation shall be responsible for any and all obligations
12 incurred by the department or its harbors division in connection
13 with the department's exercise of the authority and performance
14 of the duties and responsibilities conferred upon it and its
15 director by chapters 102, 266, and 268, Hawaii Revised Statutes,
16 until the time that the obligations, including any accounts
17 payable, accrued paid time off, debt, capital leases, and other
18 obligations incurred before the transfer completion date, have
19 been assumed by the Hawaii commercial harbors authority, which
20 shall not occur prior to the transfer completion date. All
21 collective bargaining disputes or claims against the department



1 grounded in an act or omission, or an event that occurred prior
2 to the transfer completion date shall remain the responsibility
3 of the department of transportation. All liabilities arising
4 out of the Hawaii commercial harbors authority's exercise of the
5 authority and performance of the duties and responsibilities
6 conferred upon it and its chief executive officer by chapters
7 102, 266, and 268, Hawaii Revised Statutes, after the transfer
8 completion date shall be the responsibility of the authority.
9 The assumption by the Hawaii commercial harbors authority of the
10 bonds, notes, or other obligations of the department of
11 transportation relating to the State's commercial harbors system
12 and commercial maritime facilities shall be subject to the terms
13 and provisions of any certificate, indenture, or resolution
14 securing those bonds, notes, or other obligations. On the
15 transfer completion date, the Hawaii commercial harbors
16 authority shall assume responsibility for all rights, duties,
17 penalties, and proceedings of the department of transportation
18 related to the State's commercial harbor system and commercial
19 maritime facilities.

20 SECTION 18. The State of Hawaii pledges to and agrees with
21 the holders of the bonds, notes, or other obligations of the



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



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

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



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

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

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

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



1 SECTION 20. No more than ninety days after the transfer
2 completion date established pursuant to section 14(b) of this
3 Act, all appropriations, records, equipment, machines, files,
4 supplies, contracts, books, papers, documents, maps, and other
5 personal property heretofore made, used, acquired, or held by
6 the department of transportation relating to the functions
7 transferred to the Hawaii commercial harbors authority shall be
8 transferred with the functions to which they relate.

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



1 harbors authority or chief executive officer of the authority,
2 as appropriate.

3 SECTION 22. All deeds, executive orders, leases,
4 contracts, loans, agreements, permits, or other documents
5 executed or entered into by or on behalf of the department of
6 transportation, pursuant to the provisions of the Hawaii Revised
7 Statutes, that are reenacted or made applicable to the Hawaii
8 commercial harbors authority by this Act shall remain in full
9 force and effect. On the transfer completion date established
10 pursuant to section 14(b) of this Act, every reference to the
11 department of transportation in those deeds, executive orders,
12 leases, contracts, loans, agreements, permits or other documents
13 shall be construed as a reference to the Hawaii commercial
14 harbors authority or the board of directors of the authority.

15 SECTION 23. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so
17 much thereof as may be necessary for fiscal year 2020-2021 for
18 to effect the transfer of functions from the department of
19 transportation to the Hawaii commercial harbors authority as
20 required by this Act.



1 The sums appropriated shall be expended by the Hawaii
2 commercial harbors authority for the purposes of this Act.

3 SECTION 24. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 25. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 26. This Act shall take effect on July 1, 2019;
12 provided that the amendments made to section 103D-203(a), Hawaii
13 Revised Statutes, by section 9 of this Act shall not be repealed
14 when that subsection is reenacted on June 30, 2021, pursuant to
15 section 6 of Act 42, Session Laws of Hawaii 2018.

16
INTRODUCED BY: *M. N. M.*
By Request



S.B. NO. 1482

Report Title:

Hawaii Commercial Harbors Authority; Department of
Transportation; Commercial Harbors; Commercial Maritime
Facilities, Operations, and Activities; Appropriation

Description:

Establishes the Hawaii commercial harbors authority. Transfers
jurisdiction and functions relating to commercial harbors and
commercial maritime operations from the department of
transportation to the Hawaii commercial harbors authority.
Appropriates funds.

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



ALOHA

Hawaii's Commercial Harbor System

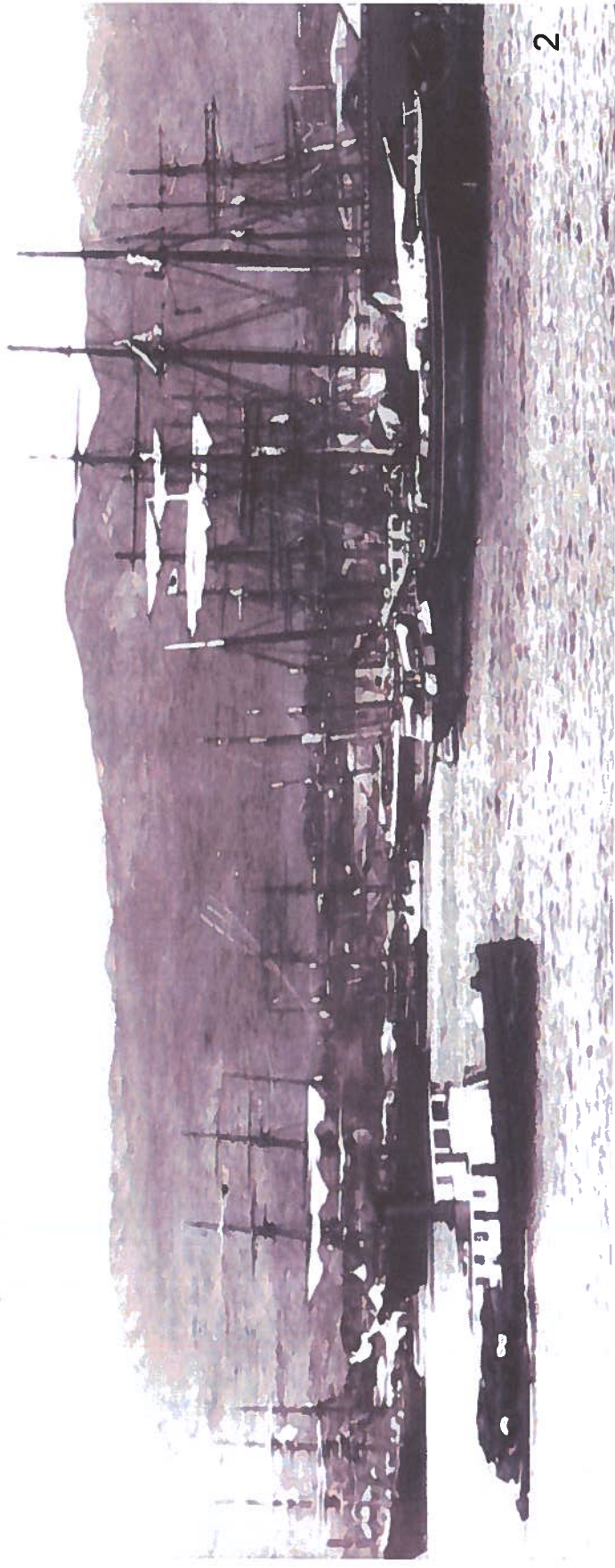
September 12, 2019

Hawaii Commercial Harbors Authority Task Force



HAWAII'S ECONOMIC HISTORY

- **Industrial changes over time:**
 - FUR & SANDALWOOD trades (1790s - early 1800s)
 - WHALING (1820 - 60)
 - AGRICULTURE (mid 1800s through today)
 - TOURISM (mid-20th century through today)
 - MILITARY (1900s through today)



UTILIZATION OF HAWAII'S HARBORS

- A DBEDT study revealed that about 80% of all goods used in Hawaii are imported.*
- Of this amount, 98.6% of the goods are brought in through the commercial harbors system.



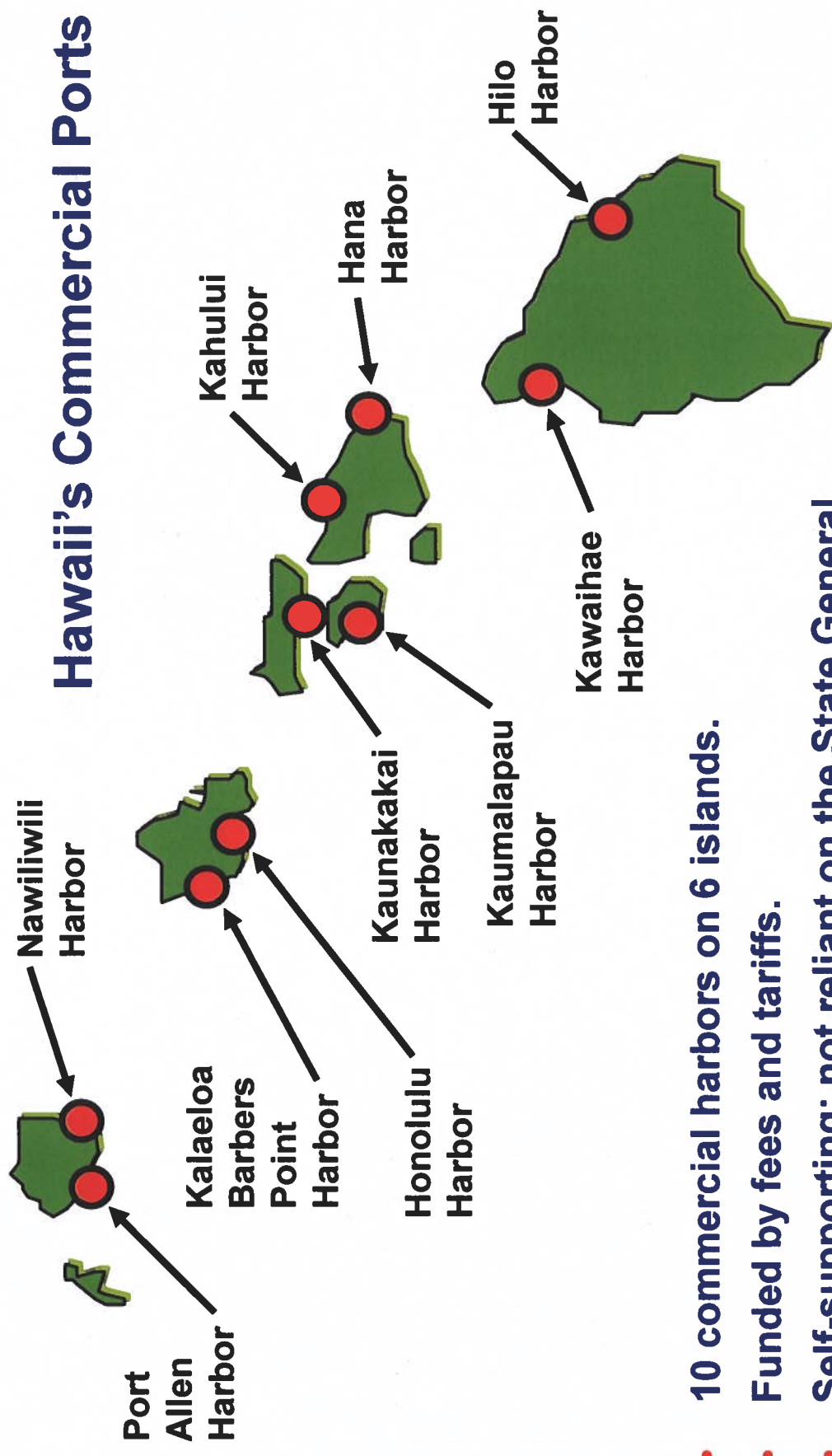
**Size and Growth Potential of Hawaii's
Maritime Industry, Lee & Olive, 1994*

INDUSTRIES

- Today's industries supported by Hawaii's harbors:
 - Cargo shippers.
 - Passenger vessels (cruise and excursion).
 - Commercial fishing operations.
 - Vessel building and repair yards.
 - Marine Research facilities.
 - Military operations, incl. transshipment to Pacific Isl.



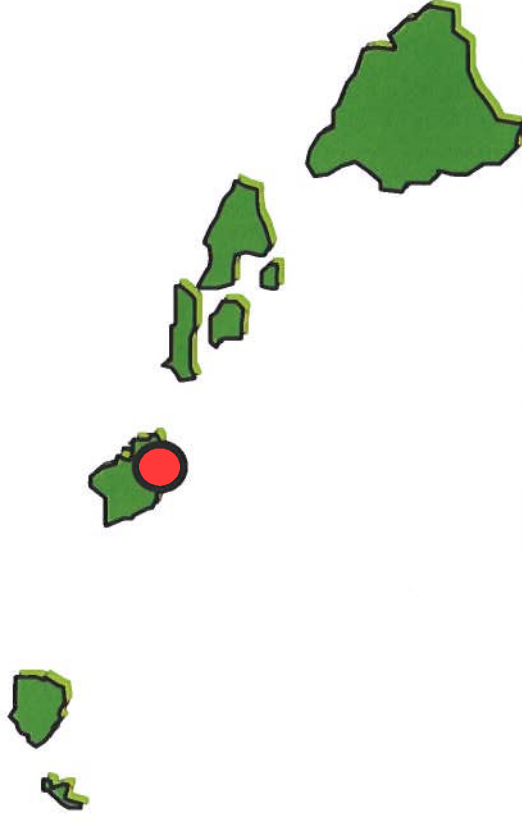
STATEWIDE HARBORS SYSTEM



- 10 commercial harbors on 6 islands.
- Funded by fees and tariffs.
- Self-supporting; not reliant on the State General Fund.

HONOLULU HARBOR

- Largest and primary commercial harbor for the state. Approximately, 320,000 forty-foot equivalent units per year.
- Hub of the statewide ocean port system.
- Cargo is transshipped to neighbor islands.
- Cargo is transshipped to Guam, CNMI, American Samoa, and FAS ports. Approximately, 36,000 forty-foot equivalent units per year.
- Located near the state's capital city of Honolulu.



HONOLULU HARBOR



KALAELOA (BARBERS POINT) HARBOR



- Second busiest harbor in the state and located near Oahu's second city of Kapolei.
- Handles dry-bulk (cement, coal, scrap metal) and liquid-bulk (petroleum) cargos.



KAHULUI HARBOR

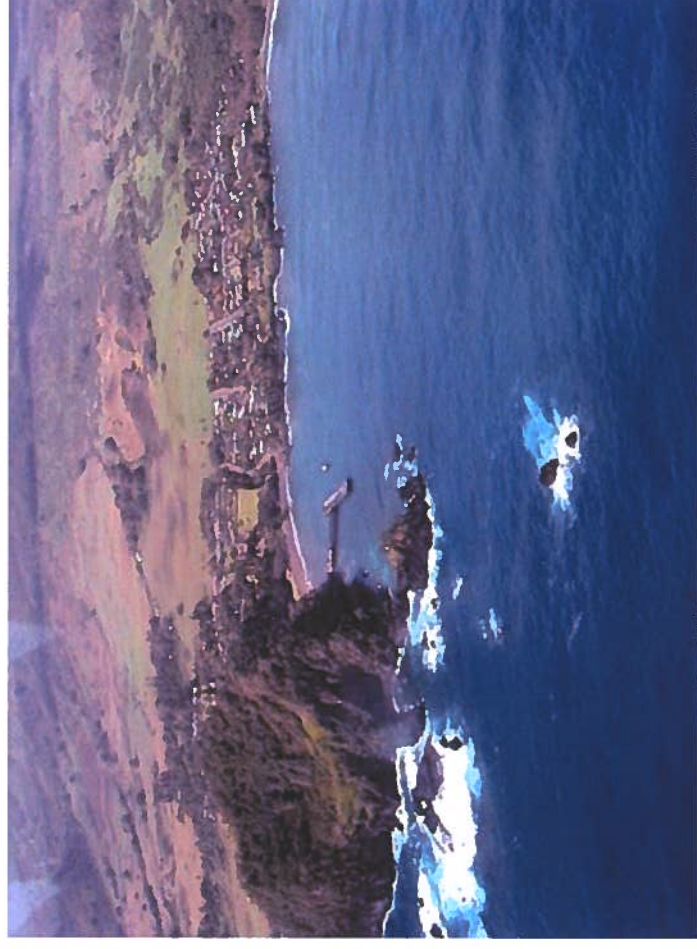
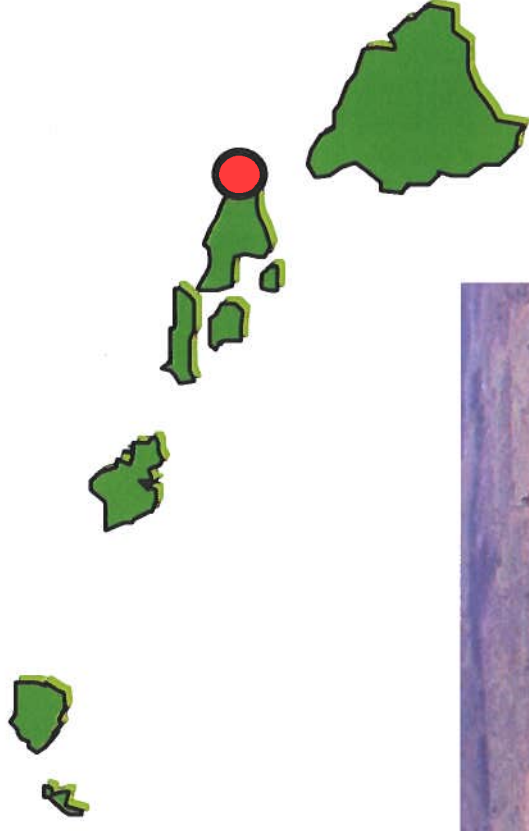


- Maui's North placed commercial harbor.
- Busiest of the neighbor island harbors.
- Challenges include limited landside space and cultural uses in the harbor.



HANA HARBOR

- East side of Maui.
- Currently not an operational commercial harbor. Goods are trucked from Kahului Harbor to Hana town.
- DLNR maintains a small boat launch ramp adjacent to the commercial pier.



KAUNAKAKAI HARBOR

- Molokai's only commercial harbor.
- Connected with Maui via its ferry service.



KAUMALAPAU HARBOR

- Lanai's only commercial harbor.
- Critical lifeline for the island's economy.



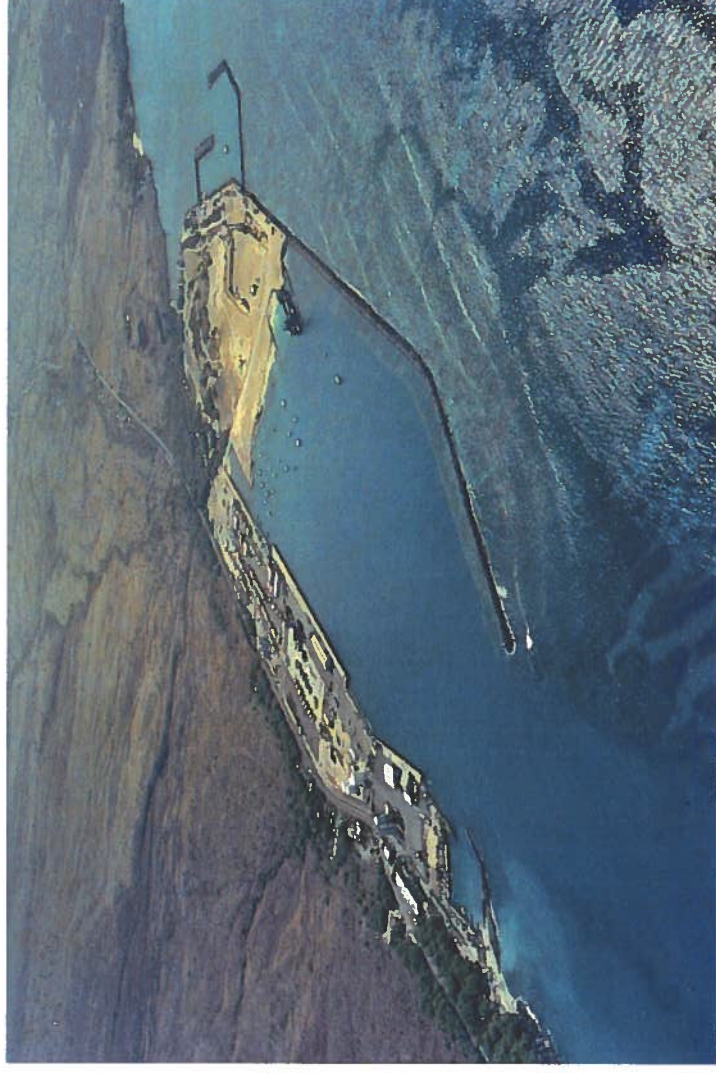
HILO HARBOR

- One of two commercial harbors on Hawaii Island.
- Located near the County's capitol.



KAWAIIHAE HARBOR

- Hawaii Island's second commercial harbor.
- Surrounded by sensitive cultural sites.
- Bottled water has become a significant export.



NAWILIWILI HARBOR

- One of two commercial harbors on Kauai.
- Processes containerized cargo.
- Located near the County's capitol of Kauai.



PORT ALLEN HARBOR

- **Kauai's second commercial harbor.**
- **Provides berthing for excursion boats.**
- **Pacific Missile Range Facility (PMRF) operations vessels.**



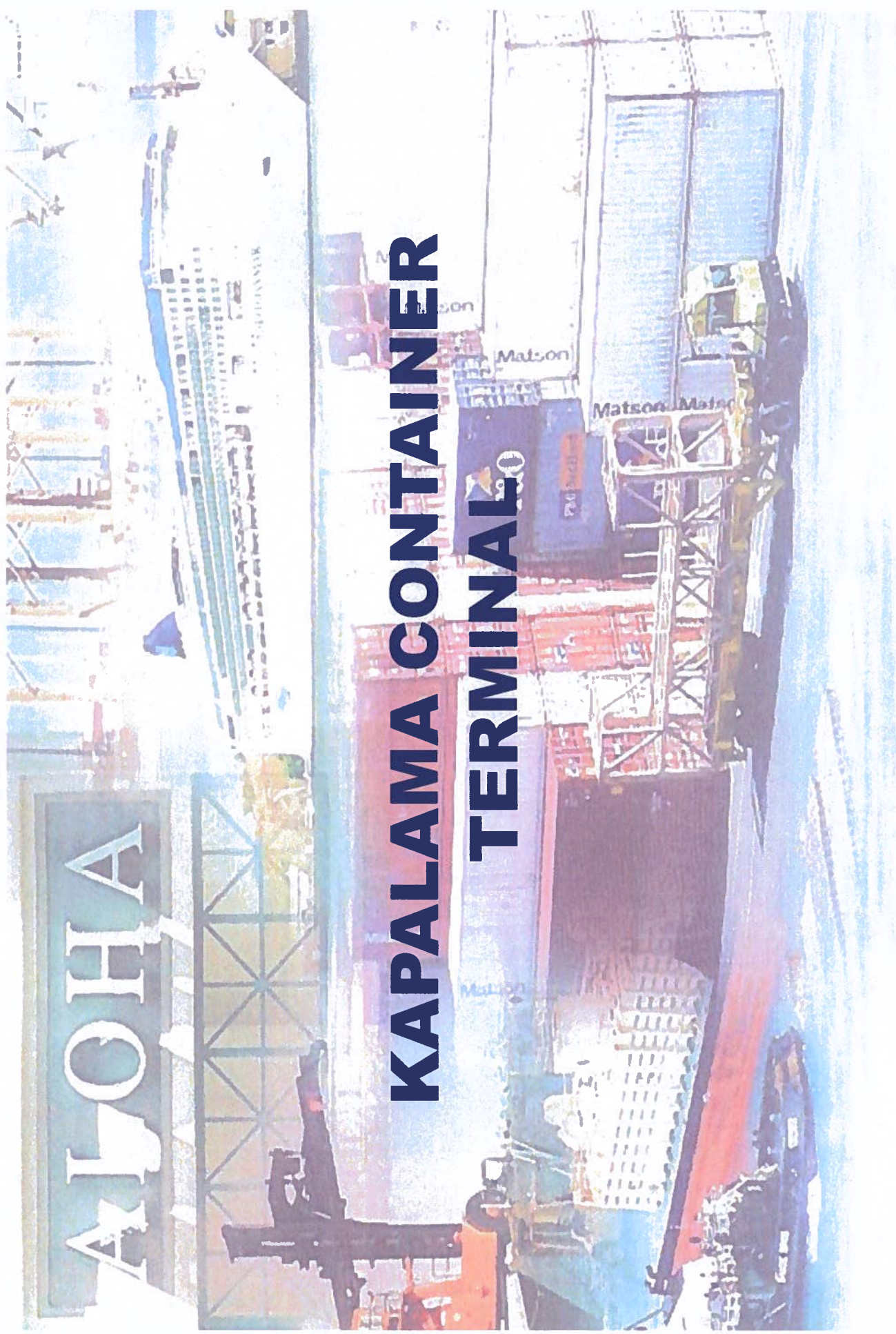
HARBOR MODERNIZATION PROJECTS

- Key Projects in 2010 Bond Sale Completed
 - Honolulu – Demolition of Former Kapalama Military Reservation
 - Honolulu – Construct Pier 12
 - Honolulu – Construct Pier 15
 - Honolulu – Kapalama Container Facility EIS
 - Honolulu – Renovation of Building Pier 35
 - Kalaeloa -- Harbor Master Plan
 - Kawaihae -- Cargo Yard improvements (Pier 2)
 - Hilo – Container Yard Improvements (Pier 1 & 4)
 - Hilo – Construct Pier 4
 - Hilo -- Kumau Street Entrance
 - Kalaeloa – Temporary Paving for Pier 7

HARBOR MODERNIZATION

PROJECTS

- Current and Future
 - Honolulu Harbor-- 2050 Master Plan
 - Honolulu -- Kapalama Container Yard (Phase 1)
 - Honolulu -- Kapalama Container Wharf (Phase 2)
 - Honolulu -- Piers 24-28 Infrastructure Improvements
 - Honolulu – Pier 51 Container Yard and Waterside Improvements
 - Honolulu – Pier 1 Infrastructure Improvements
 - Kalaeloa Barbers Point Harbor – Cargo Yard
 - Kalaeloa Barbers Point Fuel Pier
 - Kalaeloa Barbers Point Harbor Infrastructure
 - Kawaihae Intersection Improvements
 - Kawaihae Intersection Improvements
 - Kahului – Relocate Maui District Office
 - Kahului – Container Yard (Land Acquisition)
 - Hilo Water Tank Demolition
 - Hilo Pier 2 & 3 Improvements
 - Hilo 2 Acres Cargo Yard Expansion
 - Hilo – Pier 5 Improvements
 - Nawiliwili – Roadway and Pedestrian Improvements



KAPALAMA CONTAINER TERMINAL

MOVES FOR KAPALAMA DEVELOPMENT

Kapalama

Sand Island

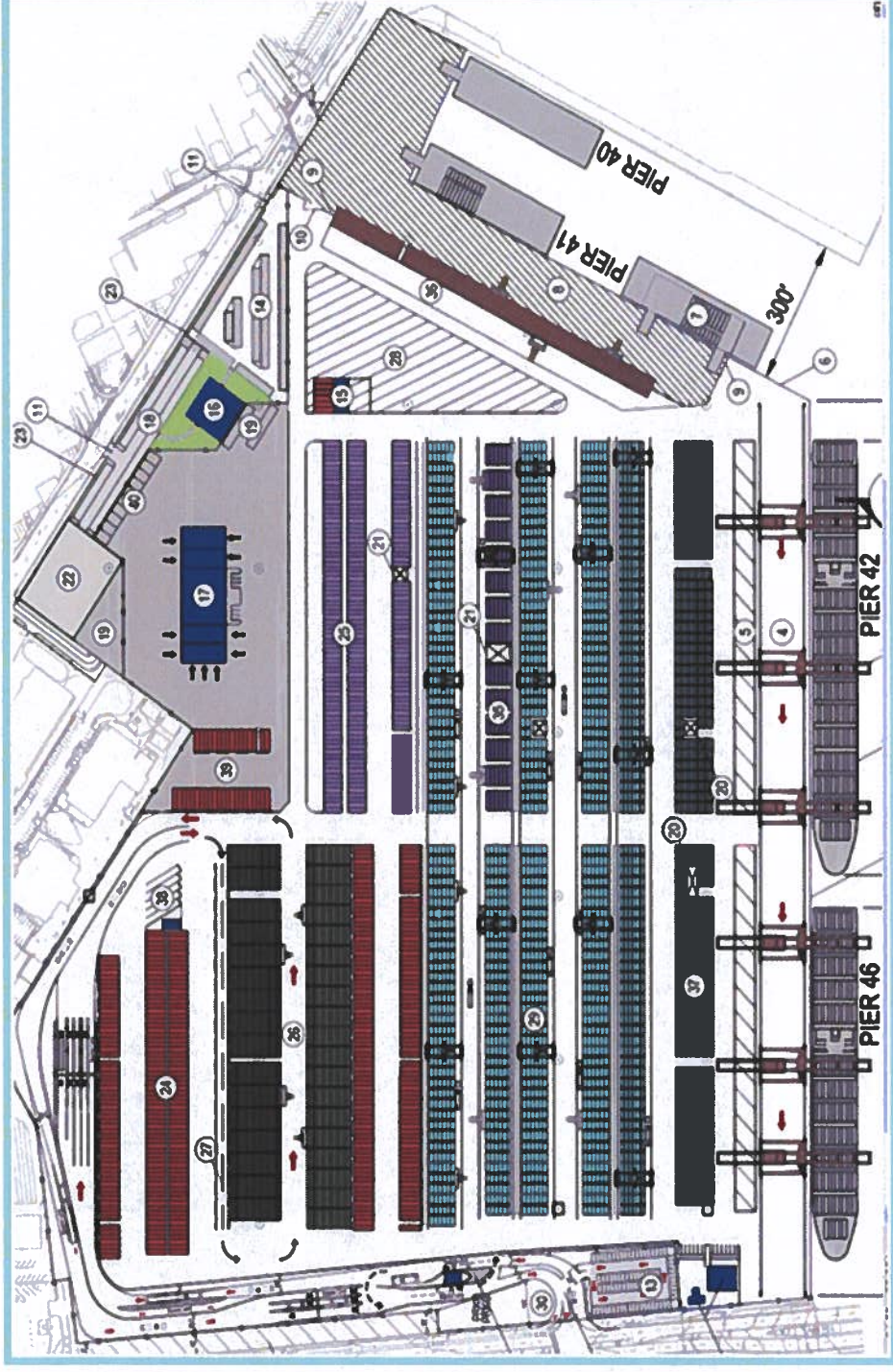
Downtown

UH SOEST

Pacific Shipyards and Atlantis

Marine Spill Response Corp.
Clean Island Council

KAPALAMA CONTAINER TERMINAL, PHASES 1 & 2



- The Harbors Modernization Plan, and especially the Kapalama Container Terminal, will provide new cargo handling capacity to Honolulu Harbor.

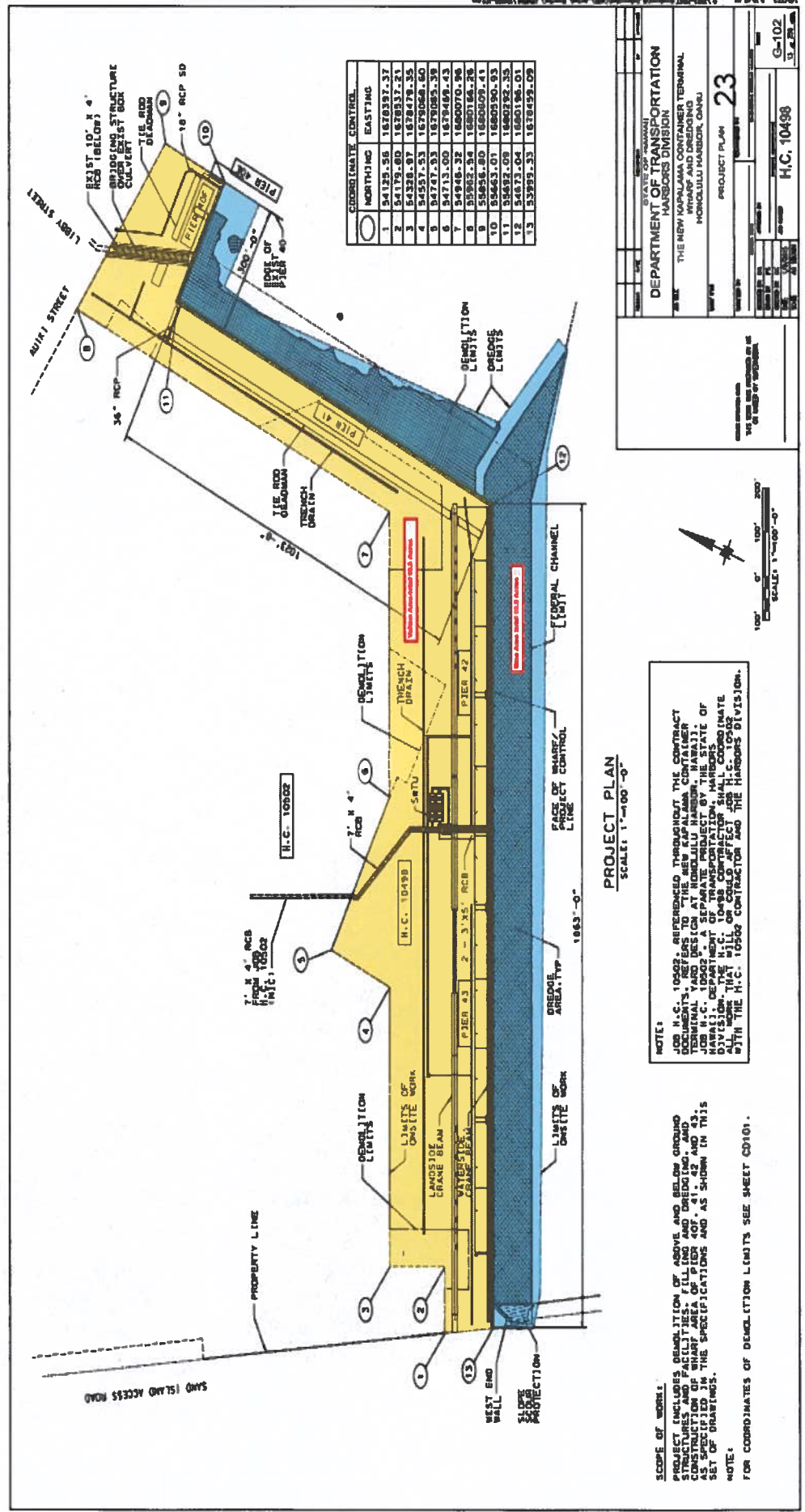
KAPALAMA CONTAINER TERMINAL - PHASE 1

Original Project Construction Cost \$164M.

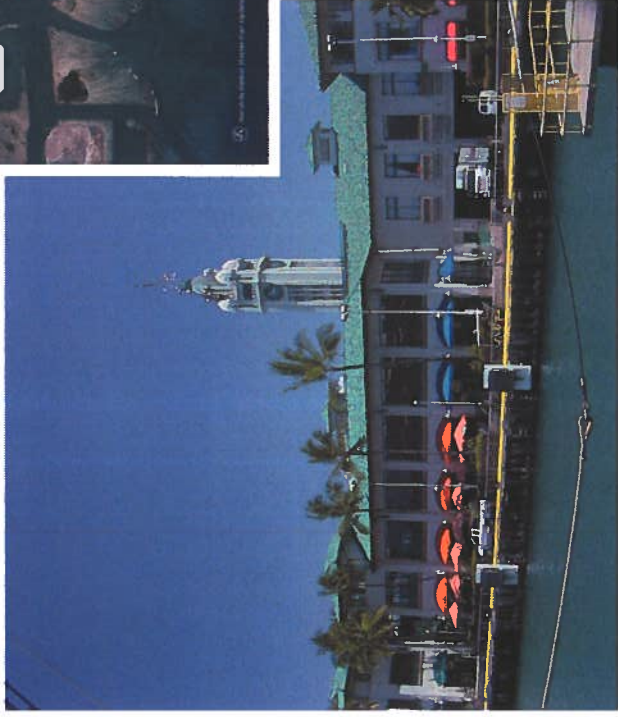
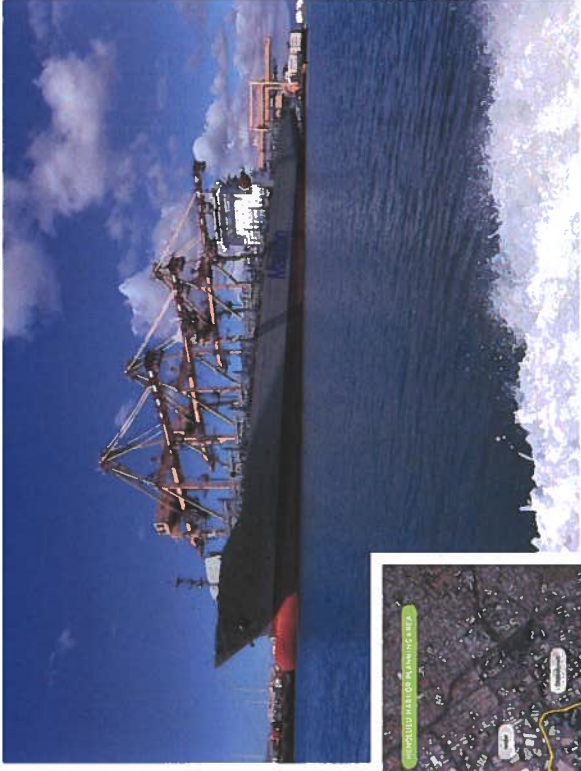


NEW KAPALAMA CONTAINER TERMINAL WHARF AND DREDGING – PHASE II

Estimated Project Construction Cost \$200M - \$300M.



HONOLULU HARBOR 2050 MASTER PLAN

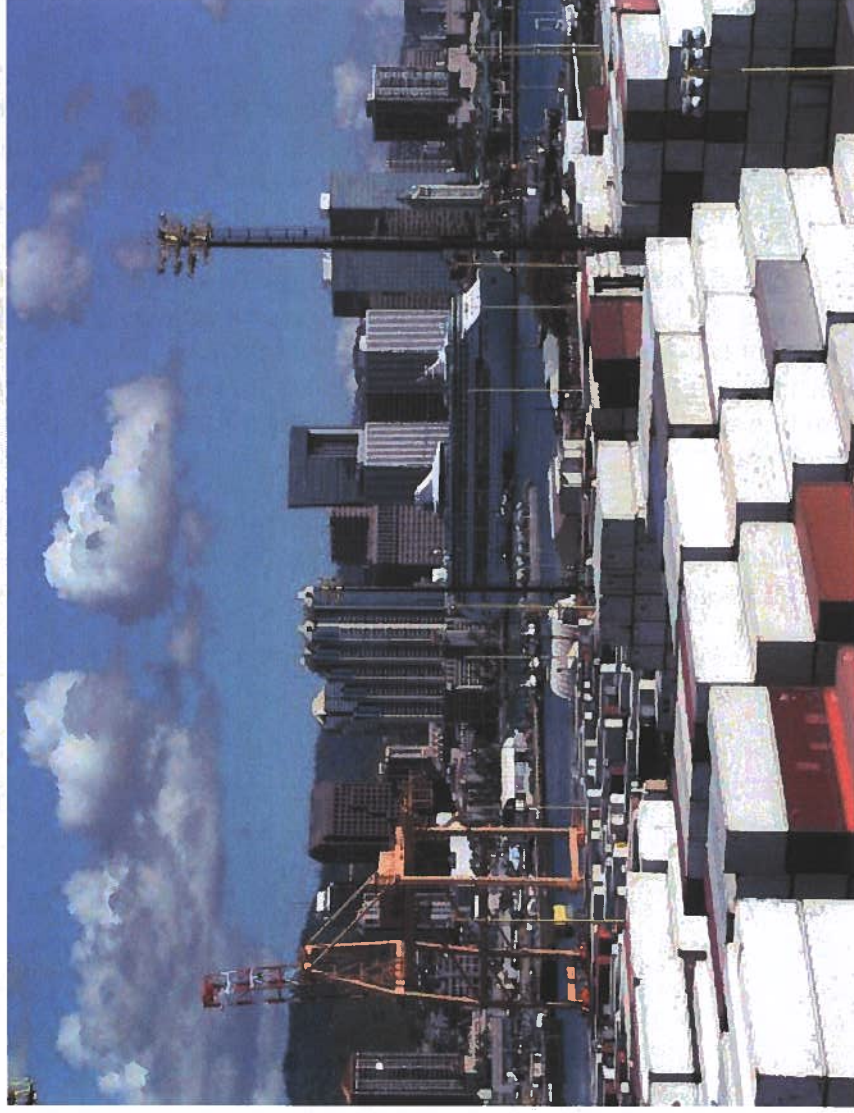


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Go to www.hawaii.gov/dot/harbors

from AI (UPW)
12 Sep 19

Hawaii Commercial Harbor Authority

Potential Effects Upon State Harbor Public Civil Service Employees

Pending the final language of any subsequent legislation to create a Hawaii Commercial Harbor Authority, the following potential conflict with current law, could occur:

HR 61 (2019) calls for..."establishing a separate State entity with overall jurisdiction over the responsibility for the State's commercial harbors and maritime" for efficiency.

However, having a governing body with full authority to manage and operate the harbors and maritime systems only with efficiency in mind potentially means bypassing or amending current laws affecting the civil service and public sector collective bargaining. This will "interfere with the policies underlying the civil service as set forth by the Legislature, i.e. elimination of the spoils systems and the encouragement of openness, merit and independence. " (LRB Report on Privatization 1997). This is the major conflict.

Hawaii State Constitution

Article XIII, Section 1 and 2. Provides for the right to organize for the purpose of collective bargaining. Public sector collective bargaining is implemented through HRS 89, which extols the public policy for "...joint decision-making" and "...harmonious and cooperative relations", and more.

Article XVI, Section 1. Provides that public employment in the civil service is governed by the merit principle. HR 76, the civil service system, and more implement the merit principle. The purpose of the law "is to build a career service in government, free from coercive political influences, to render impartial service to the public at all times, according to the dictates of ethics and morality in compliance with all laws."

These are core concerns of the UPW including other rights of public employees, wages and benefits, working conditions, equal opportunity, non-discrimination, safety and health, and more.

We look forward to further discussions. We appreciate the opportunity to submit our concerns.



Harbors Division
Department of Transportation
State of Hawaii

MEMORANDUM FOR RECORD

November 5, 2019

SUBJECT: Hawaii Commercial Harbors Authority Task Force – October 10, 2019 meeting summary

1. House Resolution No. 61 of the House of Representatives, Thirtieth Legislature, 2019 requests that the State of Hawaii DOT Harbors Division convene a task force to study the feasibility of establishing a Hawaii Commercial Harbors Authority.

2. On October 10, 2019, the Task Force (TF) held its third of five meetings at the Harbors Division (agenda attached). In attendance were Keith Regan, Bob Masuda, Keith Kawaoka, Dayton Nakanelua, Rick Hartsell, Nelisa Asato (in place of Kuuhaku Park), and Derek Chow. Not in attendance were Robert Yu, Andrew Garrett, Baba Ha'ole, and Richard Kamoe.

3. The agenda items for Meeting 3 were reviewed. Also reviewed agenda items for the upcoming Meeting 4 and noted preparation of the TF report to the legislature. The UPW paper outlining their concern of union labor benefits being changed was discussed. The UPW and HGEA expressed concern and caution of benefits being changed after the conversion and explained the example when the Maui hospitals were privatized, and employee benefits changed; emphasis is added that employee benefits shall not change in a conversion. There were no further additions to the pros and cons. It was again discussed, that the sought-after goals may be gained through making changes in State processes and requirements without the conversion to a port authority.

4. Actions taken since the last meeting were discussed. The port authority tour is scheduled for the week of October 21-25. All participants are responsible for the costs of airfare and hotels. Matson will be arranging all ground logistics and meetings. Matson needs a firm headcount for logistics planning and to block hotel rooms. Senate Bill 1482, Relating to the Hawaii Commercial Harbors Authority, was discussed (copy attached). Nelisa gave background on how the bill language was drafted. The briefing of the Hawaii Harbor System was also discussed once again (copy attached).

5. TF questions to be taken on the port authority tour were reviewed, additional questions were not added:

- What factors led to the creation of your port authority?
- What were the issues in the transition to a port authority?
- When did these issues happen and how long did it take to resolve?
- What are the cruise ship fees?
- What is the marine fire-fighting capabilities?
- How does the port authority interact with other agencies and organizations?
- What is the coordination, service connections, and authorities between the port authority and other government agencies?
- What is FAA's position on a port authority (related to those ports authorities that have both airport and harbors)?

MFR - Hawaii Commercial Harbors Authority Task Force – October 10, 2019 meeting summary

6. Derek reviewed that the TF report to the legislature will document each agencies and organization's official position, support, opposition, and concerns on the conversion to a Hawaii Commercial Harbors Authority. He asked that the letters be sent to him by October 31, 2019. The agencies/organizations letters will be appended to the report as will copies of the TF meeting summaries and a summary of the west coast tour. By Meeting 4, Derek will have the draft TF report to share with the TF for review in the meeting; it was requested that the TF be sent the copy of the draft report at least 2 days ahead of the meeting, which would be November 12. Keith suggested using tables, charts and graphs to illustrate comparisons between the current State controlled harbor and a port authority.

7. The agenda for Meeting 4 was reviewed, which includes review of draft report, review comments on draft report, establish any further review comments suspense date. A tour of the Matson terminal will follow Meeting 4. Meeting 5 includes review of the final report. The final report will be transmitted by the Governor's office to the Legislature.



DEREK J. CHOW
Deputy Director, Harbors Division

----- END -----

JAN 24 2019

A BILL FOR AN ACT

RELATING TO THE HAWAII COMMERCIAL HARBORS AUTHORITY.

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

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



S.B. NO. 1482

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

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

8 (1) Maximizing the contribution of the State's commercial
9 harbors to Hawaii's economy;

10 (2) Ensuring dedicated expert commercial harbor
11 leadership, management continuity, and year-round
12 decision-making, consistent with industry best
13 practices;

14 (3) Improving administrative efficiency by streamlining
15 administrative processes;

16 (4) Accelerating the planning and implementation of the
17 state commercial harbors' capital improvement
18 programs;

19 (5) Increasing the financial flexibility and strength of
20 the State's commercial harbors;



1 (6) Increasing economic opportunities for the State, in
2 collaboration with the Hawaii tourism authority;

3 (7) Increasing responsiveness to consumer needs,
4 commercial opportunities, and economic demands; and

5 (8) Maximizing job creation within the State.

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

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

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

21 "CHAPTER



HAWAII COMMERCIAL HARBORS AUTHORITY

PART I. GENERAL PROVISIONS

§ -1 Definitions. As used in this chapter:

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

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

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

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

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

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

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



(1) Develop and implement management structures, policies, and procedures based on commercial harbors industry best practices;

(2) Efficiently develop, manage, operate, and maintain the State's commercial harbors and maritime facilities; and

(3) Administer the provisions of chapters 102, 266, and 268 that are applicable to commercial harbors and maritime facilities.

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

(b) The powers of the authority shall be vested in and exercised by a board of directors, which shall consist of nine voting members who shall be appointed by the governor; provided that three members shall be selected from a list of persons nominated by the speaker of the house of representatives, and



1 three members shall be selected from a list of persons nominated
2 by the president of the senate; provided further that the
3 counties of Hawaii, Kauai, and Maui, and the city and county of
4 Honolulu shall each be represented by at least one board member
5 who is a resident of the respective county. All members shall
6 be appointed for terms of four years; provided that the governor
7 shall stagger the initial terms pursuant to section 26-34(a).

8 (c) Members shall have relevant business and management
9 experience, including experience in one or more of the following
10 disciplines:

- 11 (1) Commercial maritime operations;
- 12 (2) Maritime law;
- 13 (3) Non-maritime harbor business;
- 14 (4) Commercial development
- 15 (5) Construction management;
- 16 (6) Financial planning;
- 17 (7) Budgeting;
- 18 (8) Hospitality;
- 19 (9) Tourism;
- 20 (10) Marketing; and
- 21 (11) Cultural traditions and practices of native Hawaiians.



S.B. NO. 1482

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

4 (d) The governor may appoint up to two members without
5 regard to the requirement in section 78-1(b) that appointive
6 officers be residents of the State at the time of their
7 appointment; provided that no more than two non-residents shall
8 serve as members of the board at any time.

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

13 (f) No board member appointed under this section shall be
14 an officer or employee of the State or a county.

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

19 (h) The authority shall be headed by a single executive to
20 be known as the chief executive officer of the Hawaii commercial
21 harbors authority, who shall:



S.B. NO. 1482

- 1 (1) Not be a member of the board;
- 2 (2) Be exempt from chapters 76 and 89; and
- 3 (3) Receive a salary fixed by the board.
- 4 (i) The chief executive officer:
 - 5 (1) Shall be selected based on criteria approved by the
 - 6 board, including experience in commercial harbor
 - 7 management at an executive level at a large-size or
 - 8 medium-size commercial harbor within the United
 - 9 States, management of large-scale capital programs,
 - 10 and domestic and international harbor and maritime
 - 11 development;
 - 12 (2) Shall be appointed by an affirmative vote of not less
 - 13 than five members of the board;
 - 14 (3) Shall be employed subject to a formal contract, the
 - 15 terms of which shall be approved by the board;
 - 16 provided that the terms shall include provisions for
 - 17 the removal of the chief executive officer whether
 - 18 with or without cause;
 - 19 (4) May be removed from office only by a vote of not less
 - 20 than five members of the board; provided that the



- 1 basis for removal is consistent with the terms of the
- 2 chief executive officer's employment contract;
- 3 (5) Shall have the powers as described in this chapter and
- 4 the provisions of chapters 102, 266, and 268 that are
- 5 applicable to commercial harbors and maritime
- 6 facilities, as may be delegated by the board;
- 7 (6) Except when excused by the board, shall attend all
- 8 meetings of the board, keep a record of the
- 9 proceedings, and maintain and be the custodian of the
- 10 official seal of the authority and all books, records,
- 11 documents, and papers filed with the authority;
- 12 (7) Shall direct and supervise the authority's
- 13 administrative and operational affairs in accordance
- 14 with the directives of the board;
- 15 (8) Shall approve all accounts for salaries and allowable
- 16 expenses of the authority;
- 17 (9) Shall serve as chief procurement officer of the
- 18 authority; and
- 19 (10) Shall do all things necessary, as directed by the
- 20 board, to carry out the powers and duties conferred
- 21 upon the authority by this chapter and the provisions



S.B. NO. 1482

of chapters 102, 266, and 268 that are applicable to commercial harbors and maritime facilities.

(j) Upon the vacancy of the position of the chief executive officer, the board shall designate a deputy executive officer or other employee of the authority to serve as the interim chief executive officer of the authority until the vacancy is filled by the board. The interim chief executive officer shall have all the powers and responsibilities and receive the salary of the chief executive officer.

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

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

(2) Shall provide as appropriate for the arrival, departure, mooring, and servicing of vessels, and the loading and unloading of passengers and cargo at all



- 1 commercial harbors and maritime facilities under the
2 control of the authority;
- 3 (3) Shall establish performance targets and performance
4 standards for all state commercial harbors and marine
5 facilities to achieve the highest levels of customer
6 service;
- 7 (4) Shall ensure that appropriate mission statements,
8 business plans, minimum development standards, and
9 strategic goals are established and that progress
10 toward their accomplishment is regularly assessed and
11 reported;
- 12 (5) Shall develop an organization and management structure
13 to best accomplish the goals of the Hawaii commercial
14 harbors system and the authority;
- 15 (6) Shall have an official seal and may alter the official
16 seal at its pleasure;
- 17 (7) May make, execute, or assume contracts, leases, and
18 all other instruments necessary or convenient for the
19 exercise of its powers and functions under this
20 chapter and the provisions of chapters 102, 266, and



268 that are applicable to commercial harbors and
maritime facilities;

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

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

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

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



S.B. NO. 1482

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

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

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

15 (14) Shall take all actions necessary under emergencies
16 declared by the governor;

17 (15) Shall fix, impose, prescribe, and collect rates,
18 rentals, fees, or charges for the lease, use, and
19 services of its maritime facilities at least
20 sufficient to pay the costs of operation, maintenance,
21 and repair, if any, and the required payments of the



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

6 (16) May allot any and all commercial harbor and maritime
7 facilities revenue and issue revenue bonds, refunding
8 revenue bonds, special facility revenue bonds, bond
9 anticipation notes, and other lawfully authorized
10 obligations of the State in its name and secured by
11 the revenue, or user taxes, or any combination of
12 both, of an undertaking or loan program pursuant to
13 chapter 39, but not in excess of the principal amounts
14 as are necessary for its purposes;

15 (17) May invest and secure its moneys;

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

18 (19) May do any and all things necessary to exercise the
19 powers and perform the duties conferred upon the
20 authority by this chapter and the provisions of



1 chapters 102, 266, and 268 that are applicable to
2 commercial harbors and maritime facilities.

3 (b) The authority shall not be subject to chapters 36, 37,
4 38, and 40, except for section 36-29 and as otherwise provided
5 in this chapter and chapters 266 and 268.

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

18 The board, upon the advice of its attorney, may arbitrate,
19 compromise, or settle any claim, action, or suit brought against
20 the authority pursuant to this section. Any claim compromised
21 or settled under this subsection shall be payable solely from



1 the moneys and property of the authority and shall not
2 constitute a general obligation of the State or be secured
3 directly or indirectly by the full faith and credit of the State
4 or the general credit of the State or by any revenue or taxes of
5 the State. Nothing in this subsection shall preclude the board
6 from requesting legislative appropriations to fund the
7 settlement of any claim or judgment against the authority or its
8 officers, employees, or agents.

9 Rights and remedies conferred by this section shall not be
10 construed to authorize any other claim, suit, or action against
11 the State. In addition, a judgment, compromise, or settlement
12 in an action brought against the authority under this section
13 shall constitute a complete bar to any action brought by the
14 claimant, by reason of the same subject matter, against the
15 State or an officer or employee of the authority.

16 (d) The authority shall be a "jurisdiction" and an
17 "appointing authority" under chapter 76, and an "appointing
18 authority" and an "appropriate authority" for those of its
19 officers and employees who are excluded employees under chapter
20 89C. In addition to its chief executive officer, the authority
21 may employ executive officers and a chief procurement officer



1 appointed by the chief executive officer who are qualified to
2 fill positions established in the bylaws of the authority
3 adopted by the board of directors, to perform functions and
4 exercise powers assigned by the bylaws or delegated by the board
5 or the chief executive officer. The other executive officers of
6 the authority and up to additional specially qualified
7 employees appointed by the chief executive officer shall be
8 exempt from chapters 76 and 89. All other persons employed by
9 the authority shall be subject to chapters 76 and 89, and rules
10 adopted to implement those provisions, unless expressly exempted
11 from the civil service under chapter 76 or excluded from
12 collective bargaining under chapter 89. The officers and
13 personnel of the authority shall be included in all benefit
14 programs applicable to officers and employees of the State.

15 (e) The authority and its corporate existence shall
16 continue until terminated by law; provided that no termination
17 shall take effect as long as bonds or other obligations issued
18 or assumed by the authority are outstanding, unless adequate
19 provision has been made for the payment or satisfaction thereof.
20 Upon termination of the existence of the authority, all of the



1 rights and properties of the authority then remaining shall pass
2 to and vest in the State in the manner prescribed by law.

3 (f) The authority shall be subject to chapter 103D;
4 provided that the chief executive officer shall serve as chief
5 procurement officer pursuant to sections -2(i)(9) and
6 103D-203.

7 **PART II. BUDGET AND FINANCE**

8 § -4 Exemptions. The harbor special fund shall be
9 exempt from chapters 36, 37, and 40.

10 § -5 Fiscal provisions. (a) The board shall establish
11 guidelines for preparing the authority's annual operating and
12 capital budget proposals that take into account anticipated
13 receipts, surpluses, reserves, and funds from any other source,
14 on deposit in or available for deposit into the harbor special
15 fund or any other special or revolving fund that the legislature
16 may establish for the authority.

17 (b) The authority shall submit its biennium and
18 supplemental operating and capital budget proposals to the
19 department of transportation, which shall transmit those budget
20 proposals to the governor.



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1 (c) Along with its budget proposals, the authority shall
2 provide an annual report of the income to and the expenditures
3 from the harbor special fund and any other special or revolving
4 fund administered by the authority. The authority shall provide
5 a copy of its annual report to the legislature at least twenty
6 days prior to the convening of each regular session.

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

10 (e) Notwithstanding sections 37-71 and 37-72, the governor
11 shall include in the executive budget one lump sum for each
12 means or source of funds for the authority's operating and
13 capital budget proposals in the amounts specified in the budget
14 proposals transmitted to the governor by the department of
15 transportation pursuant to subsection (b).

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

19 § -6 Budget oversight. The authority's operating and
20 capital budgets shall not be subject to review or approval by



1 the governor or any agency of the executive branch, except where
2 state general funds are requested.

3 **§ -7 Accounts; depositories.** (a) Appropriations for
4 the authority shall not be subject to any allotment system or
5 requirements. The director of finance shall notify the
6 authority and the comptroller that all of the appropriations for
7 the authority for the fiscal year have been allotted and are
8 available for expenditure as soon as possible, and in no event
9 more than three business days, after the general or supplemental
10 appropriations act is effective.

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

17 **§ -8 Expenditures in excess of appropriations.** If in
18 any fiscal year, the amount of revenues deposited into the
19 harbor special fund exceeds the amount appropriated from that
20 fund for that year, the board of directors of the authority may
21 approve expenditures in excess of the amount appropriated, up to



1 the amount by which revenues for that fund exceed the
2 appropriations from that fund for a fiscal year.

3 § -9 **Issuance of bonds.** On an annual basis, and upon
4 request of the authority, the legislature shall authorize one
5 lump sum for each means or source of funds for each of the
6 following types of bonds to be issued by the authority: revenue
7 bonds, refunding revenue bonds, and special facility revenue
8 bonds.

9 § -10 **Audits.** The auditor shall conduct management and
10 financial audits of the authority for fiscal year 2024 and every
11 second year thereafter."

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

14 "§26-19 **Department of transportation.** The department of
15 transportation shall be headed by a single executive to be known
16 as the director of transportation. The department shall
17 establish, maintain, and operate transportation facilities of
18 the State, including highways, airports, harbors[,], other than
19 commercial harbors and commercial maritime activities, and such
20 other transportation facilities and activities as may be
21 authorized by law.



1 The department shall plan, develop, promote, and coordinate
2 various transportation systems management programs that shall
3 include, but not be limited to, alternate work and school hours
4 programs, bicycling programs, and ridesharing programs.

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

13 The functions and authority heretofore exercised by the
14 department of public works with respect to highways are
15 transferred to the department of transportation established by
16 this chapter.

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



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

1. By amending subsection (a) to read:

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

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

(2) By any court or judicial or legislative office of the State; provided that if the attorney general is requested to provide representation to a court or judicial office by the chief justice or the chief justice's designee, or to a legislative office by the speaker of the house of representatives and the president of the senate jointly, and the attorney general declines to provide such representation on the



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- 1 grounds of conflict of interest, the attorney general
- 2 shall retain an attorney for the court, judicial, or
- 3 legislative office, subject to approval by the court,
- 4 judicial, or legislative office;
- 5 (3) By the legislative reference bureau;
- 6 (4) By any compilation commission that may be constituted
- 7 from time to time;
- 8 (5) By the real estate commission for any action involving
- 9 the real estate recovery fund;
- 10 (6) By the contractors license board for any action
- 11 involving the contractors recovery fund;
- 12 (7) By the office of Hawaiian affairs;
- 13 (8) By the department of commerce and consumer affairs for
- 14 the enforcement of violations of chapters 480 and
- 15 485A;
- 16 (9) As grand jury counsel;
- 17 (10) By the Hawaii health systems corporation, or its
- 18 regional system boards, or any of their facilities;
- 19 (11) By the auditor;
- 20 (12) By the office of ombudsman;
- 21 (13) By the insurance division;



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1 (14) By the University of Hawaii;

2 (15) By the Kahoolawe island reserve commission;

3 (16) By the division of consumer advocacy;

4 (17) By the office of elections;

5 (18) By the campaign spending commission;

6 (19) By the Hawaii tourism authority, as provided in
7 section 201B-2.5;

8 (20) By the division of financial institutions;

9 (21) By the office of information practices; ~~[or]~~

10 (22) By the Hawaii commercial harbors authority; or

11 ~~[(22)]~~ (23) By a department, if the attorney general, for
12 reasons deemed by the attorney general to be good and
13 sufficient, declines to employ or retain an attorney
14 for a department; provided that the governor waives
15 the provision of this section."

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

17 "(c) Every attorney employed by any department on a full-
18 time basis, except an attorney employed by the public utilities
19 commission, the labor and industrial relations appeals board,
20 the Hawaii labor relations board, the office of Hawaiian
21 affairs, the Hawaii health systems corporation or its regional



1 system boards, the department of commerce and consumer affairs
2 in prosecution of consumer complaints, insurance division, the
3 division of consumer advocacy, the University of Hawaii, the
4 Hawaii tourism authority as provided in section 201B-2.5, the
5 office of information practices, the Hawaii commercial harbors
6 authority, or as grand jury counsel, shall be a deputy attorney
7 general."

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

10 "(b) Any provision in this section to the contrary
11 notwithstanding, the Hawaii commercial harbors authority, the
12 University of Hawaii (as to casualty insurance risks only), the
13 Research Corporation of the University of Hawaii (as to casualty
14 insurance risks only), the public health facilities of the
15 department of health (with respect to medical malpractice risks
16 only), and the Hawaii health systems corporation and its
17 regional system boards shall be exempt from the requirements of
18 this chapter."

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



1 "Jurisdiction" means the State, the city and county of
2 Honolulu, the county of Hawaii, the county of Maui, the county
3 of Kauai, the judiciary, the department of education, the
4 University of Hawaii, the Hawaii commercial harbors authority,
5 and the Hawaii health systems corporation."

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

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

12 (1) Commissioned and enlisted personnel of the Hawaii
13 National Guard as such, and positions in the Hawaii
14 National Guard that are required by state or federal
15 laws or regulations or orders of the National Guard to
16 be filled from those commissioned or enlisted
17 personnel;

18 (2) Positions filled by persons employed by contract where
19 the director of human resources development has
20 certified that the service is special or unique or is
21 essential to the public interest and that, because of



1 circumstances surrounding its fulfillment, personnel
2 to perform the service cannot be obtained through
3 normal civil service recruitment procedures. Any such
4 contract may be for any period not exceeding one year;

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

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

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

16 (6) Positions filled by popular vote;

17 (7) Department heads, officers, and members of any board,
18 commission, or other state agency whose appointments
19 are made by the governor or are required by law to be
20 confirmed by the senate;



1 (8) Judges, referees, receivers, masters, jurors, notaries
2 public, land court examiners, court commissioners, and
3 attorneys appointed by a state court for a special
4 temporary service;

5 (9) One bailiff for the chief justice of the supreme court
6 who shall have the powers and duties of a court
7 officer and bailiff under section 606-14; one
8 secretary or clerk for each justice of the supreme
9 court, each judge of the intermediate appellate court,
10 and each judge of the circuit court; one secretary for
11 the judicial council; one deputy administrative
12 director of the courts; three law clerks for the chief
13 justice of the supreme court, two law clerks for each
14 associate justice of the supreme court and each judge
15 of the intermediate appellate court, one law clerk for
16 each judge of the circuit court, two additional law
17 clerks for the civil administrative judge of the
18 circuit court of the first circuit, two additional law
19 clerks for the criminal administrative judge of the
20 circuit court of the first circuit, one additional law
21 clerk for the senior judge of the family court of the



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

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

19 (11) (A) Teachers, principals, vice-principals, complex
20 area superintendents, deputy and assistant
21 superintendents, other certificated personnel,



- 1 not more than twenty noncertificated
2 administrative, professional, and technical
3 personnel not engaged in instructional work;
- 4 (B) Effective July 1, 2003, teaching assistants,
5 educational assistants, bilingual/bicultural
6 school-home assistants, school psychologists,
7 psychological examiners, speech pathologists,
8 athletic health care trainers, alternative school
9 work study assistants, alternative school
10 educational/supportive services specialists,
11 alternative school project coordinators, and
12 communications aides in the department of
13 education;
- 14 (C) The special assistant to the state librarian and
15 one secretary for the special assistant to the
16 state librarian; and
- 17 (D) Members of the faculty of the University of
18 Hawaii, including research workers, extension
19 agents, personnel engaged in instructional work,
20 and administrative, professional, and technical
21 personnel of the university;



- 1 (12) Employees engaged in special, research, or
2 demonstration projects approved by the governor;
- 3 (13) (A) Positions filled by inmates, patients of state
4 institutions, persons with severe physical or
5 mental disabilities participating in the work
6 experience training programs;
- 7 (B) Positions filled with students in accordance with
8 guidelines for established state employment
9 programs; and
- 10 (C) Positions that provide work experience training
11 or temporary public service employment that are
12 filled by persons entering the workforce or
13 persons transitioning into other careers under
14 programs such as the federal Workforce Investment
15 Act of 1998, as amended, or the Senior Community
16 Service Employment Program of the Employment and
17 Training Administration of the United States
18 Department of Labor, or under other similar state
19 programs;
- 20 (14) A custodian or guide at Iolani Palace, the Royal
21 Mausoleum, and Hulihee Palace;



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

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



1 approval of the governor; an administrative assistant
2 to the state librarian; and an administrative
3 assistant to the superintendent of education;

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

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

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

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

17 (19) Household employees at the official residence of the
18 president of the University of Hawaii;

19 (20) Employees in the department of education engaged in
20 the supervision of students during meal periods in the
21 distribution, collection, and counting of meal



1 tickets, and in the cleaning of classrooms after
2 school hours on a less than half-time basis;

3 (21) Employees hired under the tenant hire program of the
4 Hawaii public housing authority; provided that not
5 more than twenty-six per cent of the authority's
6 workforce in any housing project maintained or
7 operated by the authority shall be hired under the
8 tenant hire program;

9 (22) Positions of the federally funded expanded food and
10 nutrition program of the University of Hawaii that
11 require the hiring of nutrition program assistants who
12 live in the areas they serve;

13 (23) Positions filled by persons with severe disabilities
14 who are certified by the state vocational
15 rehabilitation office that they are able to perform
16 safely the duties of the positions;

17 (24) The sheriff;

18 (25) A gender and other fairness coordinator hired by the
19 judiciary;

20 (26) Positions in the Hawaii National Guard youth and adult
21 education programs;



(27) In the state energy office in the department of business, economic development, and tourism, all energy program managers, energy program specialists, energy program assistants, and energy analysts; ~~and~~

(28) Administrative appeals hearing officers in the department of human services~~[-]~~; and

(29) The chief executive officer of the Hawaii commercial harbors authority, all other executive officers the chief executive officer may appoint pursuant to section -3(d), and positions that the chief executive officer is authorized to fill by appointing specially qualified personnel pursuant to section -3(d).

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

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

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



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1 "Appropriate authority" means the governor, the respective
2 mayors, the chief justice of the supreme court, the board of
3 education, the board of regents, the state public charter school
4 commission, the Hawaii health systems corporation board, the
5 auditor, the ombudsman, the board of directors of the Hawaii
6 commercial harbors authority, and the director of the
7 legislative reference bureau. These individuals or boards may
8 make adjustments for their respective excluded employees."

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

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

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

- 14 (1) The judiciary--the administrative director of the
15 courts;
16 (2) The senate--the president of the senate;
17 (3) The house of representatives--the speaker of the house
18 of representatives;
19 (4) The office of Hawaiian affairs--the chairperson of the
20 board;



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- 1 (5) The University of Hawaii--the president of the
- 2 University of Hawaii;
- 3 (6) The department of education, excluding the Hawaii
- 4 public library system--the superintendent of
- 5 education;
- 6 (7) The Hawaii health systems corporation--the chief
- 7 executive officer of the Hawaii health systems
- 8 corporation; ~~and~~
- 9 (8) The Hawaii commercial harbors authority--the chief
- 10 executive officer of the Hawaii commercial harbors
- 11 authority; and
- 12 ~~[(8)]~~ (9) The remaining departments of the executive branch
- 13 of the State and all governmental bodies
- 14 administratively attached to them--the administrator
- 15 of the state procurement office of the department of
- 16 accounting and general services."
- 17 2. By amending subsection (c) to read:
- 18 "(c) For purposes of applying this chapter to the
- 19 judiciary, houses of the legislature, office of Hawaiian
- 20 affairs, University of Hawaii, department of education, Hawaii
- 21 commercial harbors authority, remaining departments of the



1 executive branch and all governmental bodies administratively
2 attached to them, and the several counties, unless otherwise
3 expressly provided, "State" shall mean "judiciary", "state
4 senate", "state house of representatives", "office of Hawaiian
5 affairs", "University of Hawaii", "department of education",
6 "Hawaii commercial harbors authority", "executive branch",
7 "county", "board of water supply" or "department of water
8 supply", and "semi-autonomous public transit agency",
9 respectively."

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

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



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- 1 (1) Lands designated in section 203 of the Hawaiian Homes
2 Commission Act, 1920, as amended;
- 3 (2) Lands set aside pursuant to law for the use of the
4 United States;
- 5 (3) Lands being used for roads and streets;
- 6 (4) Lands to which the United States relinquished the
7 absolute fee and ownership under section 91 of the
8 Hawaiian Organic Act prior to the admission of Hawaii
9 as a state of the United States unless subsequently
10 placed under the control of the board of land and
11 natural resources and given the status of public lands
12 in accordance with the state constitution, the
13 Hawaiian Homes Commission Act, 1920, as amended, or
14 other laws;
- 15 (5) Lands to which the University of Hawaii holds title;
- 16 (6) Lands to which the Hawaii housing finance and
17 development corporation in its corporate capacity
18 holds title;
- 19 (7) Lands to which the Hawaii community development
20 authority in its corporate capacity holds title;



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



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

13 SECTION 11. Section 171-64.7, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) This section applies to all lands or interest therein
16 owned or under the control of state departments and agencies
17 classed as government or crown lands previous to August 15,
18 1895, or acquired or reserved by the government upon or
19 subsequent to that date by purchase, exchange, escheat, or the
20 exercise of the right of eminent domain, or any other manner,
21 including accreted lands not otherwise awarded, submerged lands,



1 and lands beneath tidal waters that are suitable for
2 reclamation, together with reclaimed lands that have been given
3 the status of public lands under this chapter, including:

- 4 (1) Land set aside pursuant to law for the use of the
5 United States;
- 6 (2) Land to which the United States relinquished the
7 absolute fee and ownership under section 91 of the
8 Organic Act prior to the admission of Hawaii as a
9 state of the United States;
- 10 (3) Land to which the University of Hawaii holds title;
- 11 (4) Land to which the Hawaii housing finance and
12 development corporation in its corporate capacity
13 holds title;
- 14 (5) Land to which the department of agriculture holds
15 title by way of foreclosure, voluntary surrender, or
16 otherwise, to recover moneys loaned or to recover
17 debts otherwise owed the department under chapter 167;
- 18 (6) Land that is set aside by the governor to the Aloha
19 Tower development corporation; or land to which the
20 Aloha Tower development corporation holds title in its
21 corporate capacity;



(7) Land that is set aside by the governor to the agribusiness development corporation; or land to which the agribusiness development corporation in its corporate capacity holds title;

(8) Land to which the Hawaii technology development corporation in its corporate capacity holds title; [and]

(9) Land to which the department of education holds title[-]; and

(10) Land to which the Hawaii commercial harbors authority holds title."

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

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



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

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



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

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



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

5 SECTION 14. The Hawaii commercial harbors authority shall
6 succeed to the jurisdiction, powers, and responsibilities of the
7 department of transportation over commercial maritime
8 operations, commercial harbors, and commercial maritime
9 facilities, including all of the functions relating to
10 commercial harbors and commercial maritime operations performed
11 by the department and its harbors division, on the transfer
12 completion date published by the Hawaii commercial harbors
13 authority pursuant to section 14(b) of this Act, which date
14 shall be no later than December 31, 2022.

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



1 SECTION 15. (a) Not prior to January 1, 2020, but no
2 later than September 30, 2020, the governor shall designate a
3 representative who shall facilitate the Hawaii commercial
4 harbors authority's orderly succession to the jurisdiction,
5 powers, functions, rights, benefits, obligations, assets,
6 liabilities, funds, accounts, contracts, and all other things
7 currently held, used, incurred, or performed by the department
8 of transportation, its director and staff, and its harbors
9 division, in administering and exercising the authority and
10 fulfilling the responsibilities authorized or conferred upon the
11 department of transportation and the director of transportation
12 by chapters 102, 266, and 268, Hawaii Revised Statutes.

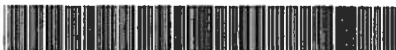
13 Not prior to October 1, 2020, but no later than
14 December 31, 2020, the governor shall appoint the members of the
15 board of directors of the Hawaii commercial harbors authority.

16 To facilitate the Hawaii commercial harbors authority's
17 timely assumption of the department of transportation's
18 authority and responsibilities, including all of the
19 department's associated bonds, notes, and obligations as
20 described in paragraph (7), the department of transportation,
21 department of accounting and general services, department of



1 human resources development, state procurement office, and any
2 other state department or agency, if requested by the authority,
3 shall enter into a memorandum of understanding with the
4 authority to:

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



1 internal complaint procedures, adopted to support
2 its civil service; and

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

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

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



S.B. NO. 1482

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

5 (6) Expeditiously transfer or otherwise facilitate the
6 authority's acquisition or assumption of all of the
7 powers, functions, rights, benefits, obligations,
8 assets, funds, accounts, contracts, and all other
9 things held, used, incurred, or performed by the
10 department of transportation, its director and staff,
11 and its harbors division, in exercising the authority
12 and fulfilling and administering the responsibilities
13 authorized or conferred upon the department of
14 transportation and the director of transportation by
15 chapters 102, 266, and 268, Hawaii Revised Statutes;
16 and

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

20 (b) As soon as feasible, the Hawaii commercial harbors
21 authority, with the concurrence of the director of



1 transportation and the governor, shall establish the transfer
2 completion date, which shall be no later than December 31, 2022,
3 and publish notice of the transfer completion date by:

4 (1) Publishing the notice in a daily publication of
5 statewide circulation pursuant to section 1-28.5,
6 Hawaii Revised Statutes;

7 (2) Posting a copy of the notice on an electronic calendar
8 on a website maintained by the State;

9 (3) Providing a copy of the notice to the department of
10 transportation, the Secretaries of the United States
11 Department of Transportation and Department of
12 Defense, the Commandant of the United States Coast
13 Guard, and the head of every other state department;
14 and

15 (4) Posting the notice prominently at every commercial
16 harbor and commercial maritime facility in the State.

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

19 SECTION 16. It is the intent of this Act not to jeopardize
20 the receipt of any federal aid nor to impair any existing
21 federal income tax exemption to, security interest of, or



1 obligation of the State or any agency thereof to the holders of
2 any bonds or other obligations issued by the State or by any
3 department or agency of the State, and to the extent, and only
4 to the extent necessary to effectuate this intent, the governor
5 may modify the strict provisions of this Act, but shall promptly
6 report any modification with reasons therefor to the legislature
7 at its next session thereafter for review by the legislature.

8 SECTION 17. This Act does not affect rights and duties
9 that matured, penalties that were incurred, and proceedings that
10 were begun before its effective date. The department of
11 transportation shall be responsible for any and all obligations
12 incurred by the department or its harbors division in connection
13 with the department's exercise of the authority and performance
14 of the duties and responsibilities conferred upon it and its
15 director by chapters 102, 266, and 268, Hawaii Revised Statutes,
16 until the time that the obligations, including any accounts
17 payable, accrued paid time off, debt, capital leases, and other
18 obligations incurred before the transfer completion date, have
19 been assumed by the Hawaii commercial harbors authority, which
20 shall not occur prior to the transfer completion date. All
21 collective bargaining disputes or claims against the department



1 grounded in an act or omission, or an event that occurred prior
2 to the transfer completion date shall remain the responsibility
3 of the department of transportation. All liabilities arising
4 out of the Hawaii commercial harbors authority's exercise of the
5 authority and performance of the duties and responsibilities
6 conferred upon it and its chief executive officer by chapters
7 102, 266, and 268, Hawaii Revised Statutes, after the transfer
8 completion date shall be the responsibility of the authority.

9 The assumption by the Hawaii commercial harbors authority of the
10 bonds, notes, or other obligations of the department of
11 transportation relating to the State's commercial harbors system
12 and commercial maritime facilities shall be subject to the terms
13 and provisions of any certificate, indenture, or resolution
14 securing those bonds, notes, or other obligations. On the
15 transfer completion date, the Hawaii commercial harbors
16 authority shall assume responsibility for all rights, duties,
17 penalties, and proceedings of the department of transportation
18 related to the State's commercial harbor system and commercial
19 maritime facilities.

20 SECTION 18. The State of Hawaii pledges to and agrees with
21 the holders of the bonds, notes, or other obligations of the



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



S.B. NO. 1482

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

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



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

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

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

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



1 SECTION 20. No more than ninety days after the transfer
2 completion date established pursuant to section 14(b) of this
3 Act, all appropriations, records, equipment, machines, files,
4 supplies, contracts, books, papers, documents, maps, and other
5 personal property heretofore made, used, acquired, or held by
6 the department of transportation relating to the functions
7 transferred to the Hawaii commercial harbors authority shall be
8 transferred with the functions to which they relate.

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



1 harbors authority or chief executive officer of the authority,
2 as appropriate.

3 SECTION 22. All deeds, executive orders, leases,
4 contracts, loans, agreements, permits, or other documents
5 executed or entered into by or on behalf of the department of
6 transportation, pursuant to the provisions of the Hawaii Revised
7 Statutes, that are reenacted or made applicable to the Hawaii
8 commercial harbors authority by this Act shall remain in full
9 force and effect. On the transfer completion date established
10 pursuant to section 14(b) of this Act, every reference to the
11 department of transportation in those deeds, executive orders,
12 leases, contracts, loans, agreements, permits or other documents
13 shall be construed as a reference to the Hawaii commercial
14 harbors authority or the board of directors of the authority.

15 SECTION 23. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so
17 much thereof as may be necessary for fiscal year 2020-2021 for
18 to effect the transfer of functions from the department of
19 transportation to the Hawaii commercial harbors authority as
20 required by this Act.



1 The sums appropriated shall be expended by the Hawaii
2 commercial harbors authority for the purposes of this Act.

3 SECTION 24. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 25. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 26. This Act shall take effect on July 1, 2019;
12 provided that the amendments made to section 103D-203(a), Hawaii
13 Revised Statutes, by section 9 of this Act shall not be repealed
14 when that subsection is reenacted on June 30, 2021, pursuant to
15 section 6 of Act 42, Session Laws of Hawaii 2018.

16
INTRODUCED BY: _____

Mu n. M. -

By Request



S.B. NO. 1482

Report Title:

Hawaii Commercial Harbors Authority; Department of Transportation; Commercial Harbors; Commercial Maritime Facilities, Operations, and Activities; Appropriation

Description:

Establishes the Hawaii commercial harbors authority. Transfers jurisdiction and functions relating to commercial harbors and commercial maritime operations from the department of transportation to the Hawaii commercial harbors authority. Appropriates funds.

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



Hawaii's Commercial Harbor System

September 12, 2019

Hawaii Commercial Harbors Authority Task Force



HAWAII'S ECONOMIC HISTORY

- **Industrial changes over time:**
 - **FUR & SANDALWOOD trades (1790s - early 1800s)**
 - **WHALING (1820 - 60)**
 - **AGRICULTURE (mid 1800s through today)**
 - **TOURISM (mid-20th century through today)**
 - **MILITARY (1900s through today)**



UTILIZATION OF HAWAII'S HARBORS

- A DBEDT study revealed that about 80% of all goods used in Hawaii are imported.*
- Of this amount, 98.6% of the goods are brought in through the commercial harbors system.



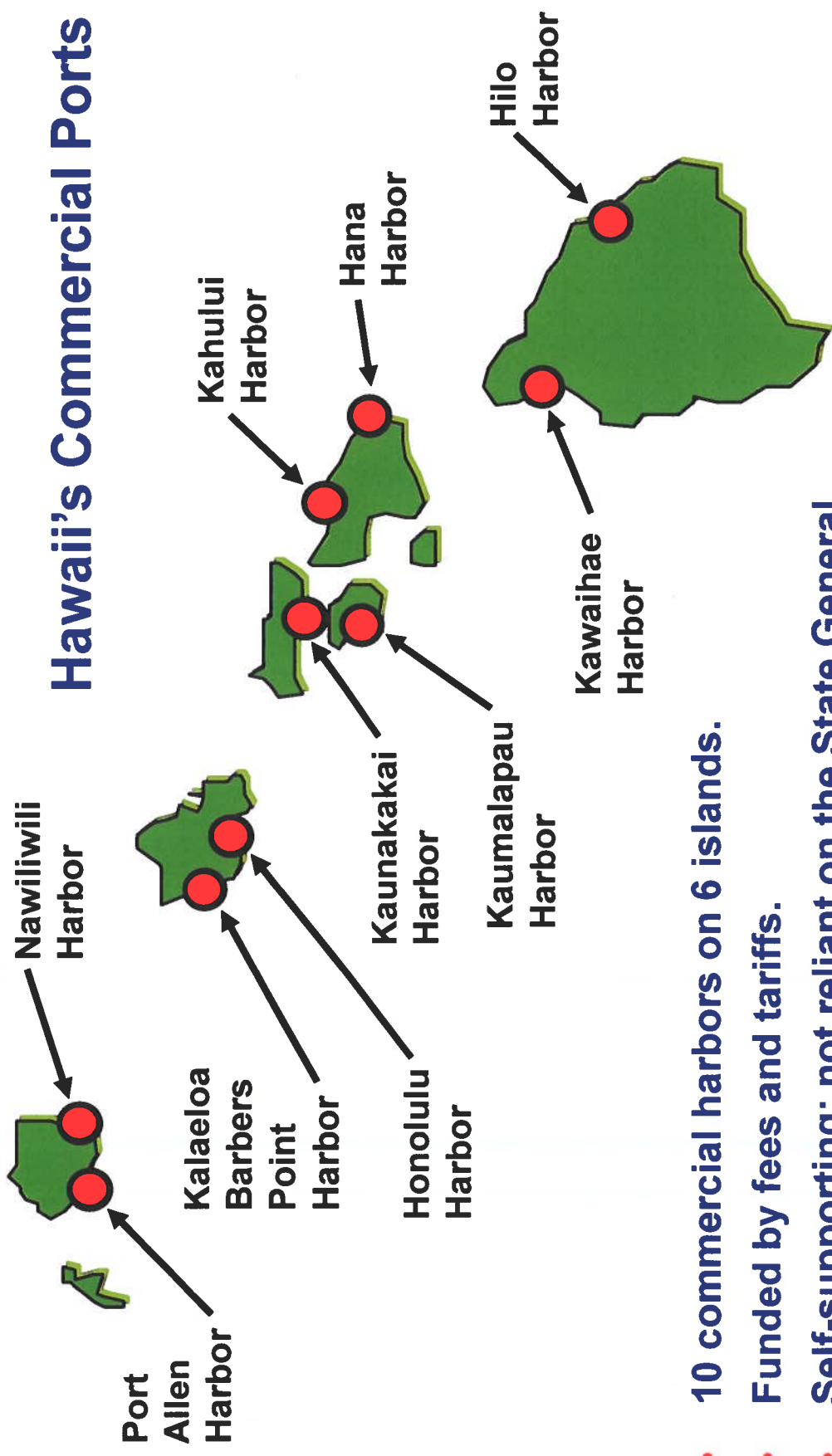
**Size and Growth Potential of Hawaii's
Maritime Industry, Lee & Olive, 1994*

INDUSTRIES

- Today's industries supported by Hawaii's harbors:
 - Cargo shippers.
 - Passenger vessels (cruise and excursion).
 - Commercial fishing operations.
 - Vessel building and repair yards.
 - Marine Research facilities.
 - Military operations, incl. transshipment to Pacific Isl.



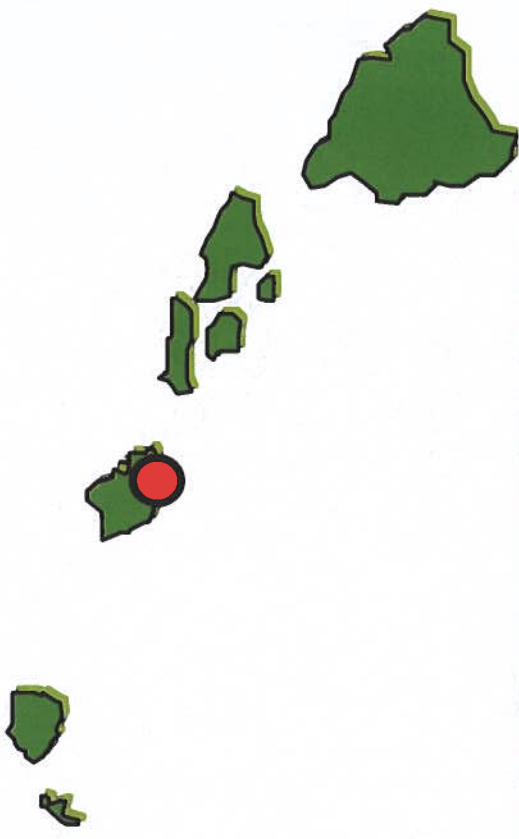
STATEWIDE HARBORS SYSTEM



- 10 commercial harbors on 6 islands.
- Funded by fees and tariffs.
- Self-supporting; not reliant on the State General Fund.

HONOLULU HARBOR

- Largest and primary commercial harbor for the state. Approximately, 320,000 forty-foot equivalent units per year.
- Hub of the statewide ocean port system.
- Cargo is transshipped to neighbor islands.
- Cargo is transshipped to Guam, CNMI, American Samoa, and FAS ports. Approximately, 36,000 forty-foot equivalent units per year.
- Located near the state's capital city of Honolulu.



HONOLULU HARBOR



KALAELOA (BARBERS POINT) HARBOR



- Second busiest harbor in the state and located near Oahu's second city of Kapolei.
- Handles dry-bulk (cement, coal, scrap metal) and liquid-bulk (petroleum) cargos.



KAHULUI HARBOR

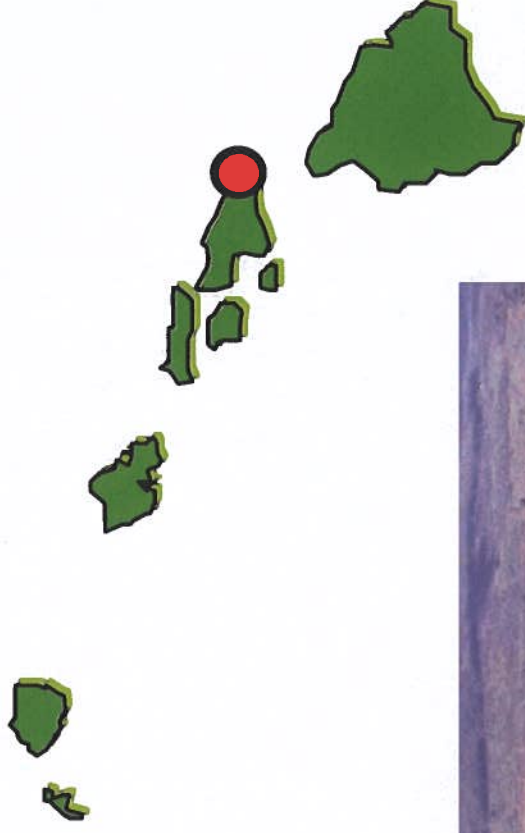


- Maui's North placed commercial harbor.
- Busiest of the neighbor island harbors.
- Challenges include limited landside space and cultural uses in the harbor.



HANA HARBOR

- East side of Maui.
- Currently not an operational commercial harbor. Goods are trucked from Kahului Harbor to Hana town.
- DLNR maintains a small boat launch ramp adjacent to the commercial pier.



KAUNAKAKAI HARBOR

- Molokai's only commercial harbor.
- Connected with Maui via its ferry service.



KAUMALAPAU HARBOR

- Lanai's only commercial harbor.
- Critical lifeline for the island's economy.



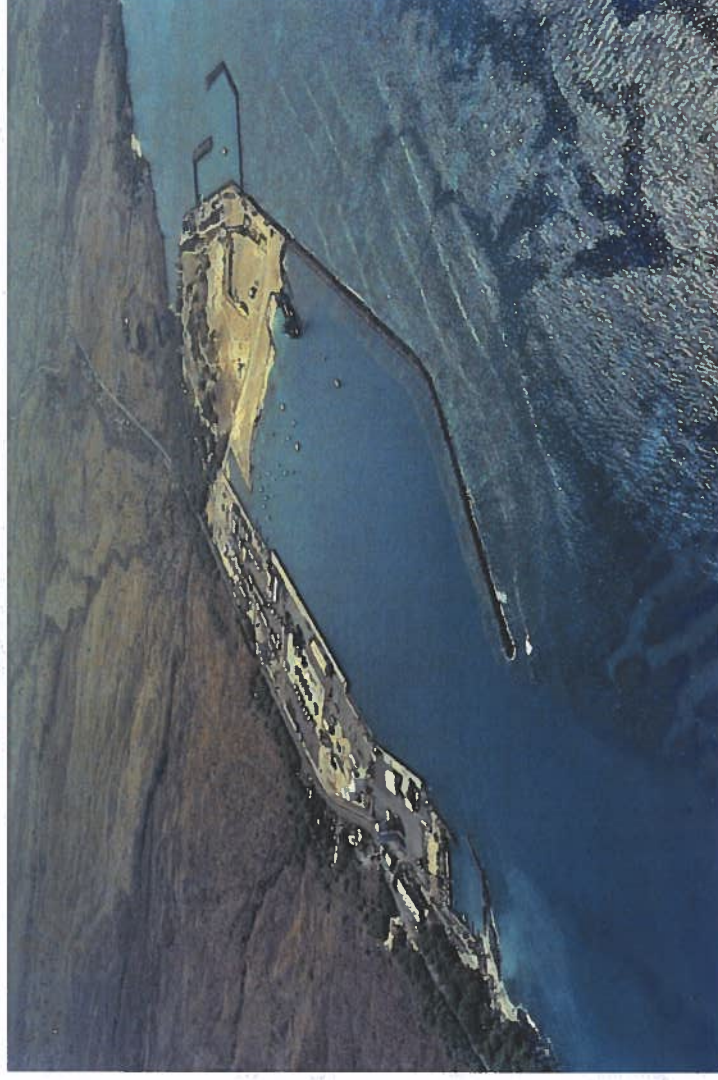
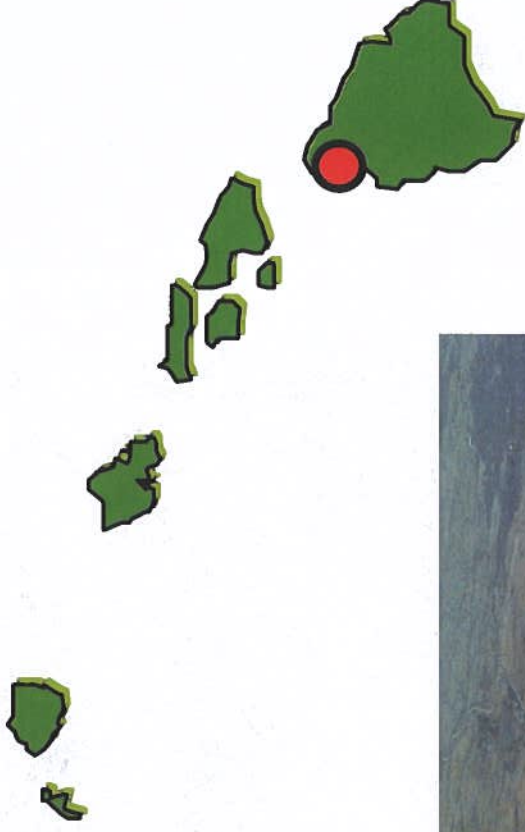
HILO HARBOR

- One of two commercial harbors on Hawaii Island.
- Located near the County's capitol.



KAWAIIHAE HARBOR

- Hawaii Island's second commercial harbor.
- Surrounded by sensitive cultural sites.
- Bottled water has become a significant export.



NAWILIWILI HARBOR

- One of two commercial harbors on Kauai.
- Processes containerized cargo.
- Located near the County's capitol of Kauai.



PORT ALLEN HARBOR

- Kauai's second commercial harbor.
- Provides berthing for excursion boats.
- Pacific Missile Range Facility (PMRF) operations vessels.

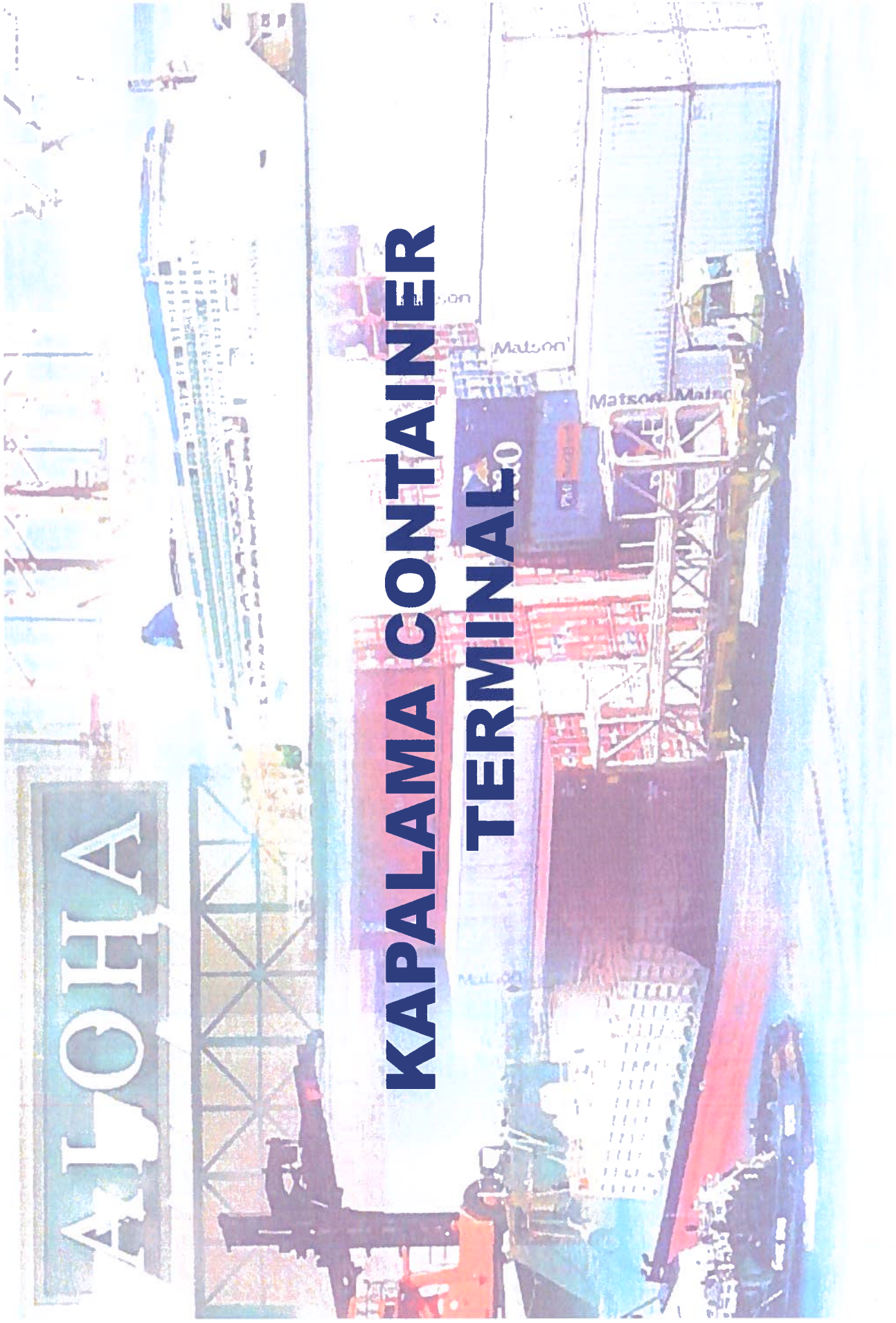


HARBOR MODERNIZATION PROJECTS

- Key Projects in 2010 Bond Sale Completed
 - Honolulu – Demolition of Former Kapalama Military Reservation
 - Honolulu – Construct Pier 12
 - Honolulu – Construct Pier 15
 - Honolulu – Kapalama Container Facility EIS
 - Honolulu – Renovation of Building Pier 35
 - Kalaeloa -- Harbor Master Plan
 - Kawaihae -- Cargo Yard improvements (Pier 2)
 - Hilo – Container Yard Improvements (Pier 1 & 4)
 - Hilo – Construct Pier 4
 - Hilo -- Kumau Street Entrance
 - Kalaeloa – Temporary Paving for Pier 7

HARBOR MODERNIZATION PROJECTS

- Current and Future
 - Honolulu Harbor-- 2050 Master Plan
 - Honolulu -- Kapalama Container Yard (Phase 1)
 - Honolulu -- Kapalama Container Wharf (Phase 2)
 - Honolulu -- Piers 24-28 Infrastructure Improvements
 - Honolulu – Pier 51 Container Yard and Waterside Improvements
 - Honolulu – Pier 1 Infrastructure Improvements
 - Kalaeloa Barbers Point Harbor – Cargo Yard
 - Kalaeloa Barbers Point Fuel Pier
 - Kalaeloa Barbers Point Harbor Infrastructure
 - Kawaihae Intersection Improvements
 - Kawaihae Intersection Improvements
 - Kahului – Relocate Maui District Office
 - Kahului – Container Yard (Land Acquisition)
 - Hilo Water Tank Demolition
 - Hilo Pier 2 & 3 Improvements
 - Hilo 2 Acres Cargo Yard Expansion
 - Hilo – Pier 5 Improvements
 - Nawiliwili – Roadway and Pedestrian Improvements



MOVES FOR KAPALAMA DEVELOPMENT

Downtown

UH SOEST

Pacific Shipyards and Atlantis

Marine Spill Response Corp.
Clean Island Council

Sand Island

Kapalama

KAPALAMA CONTAINER TERMINAL, PHASES 1 & 2



- The Harbors Modernization Plan, and especially the Kapalama Container Terminal, will provide new cargo handling capacity to Honolulu Harbor.

KAPALAMA CONTAINER TERMINAL – PHASE 1

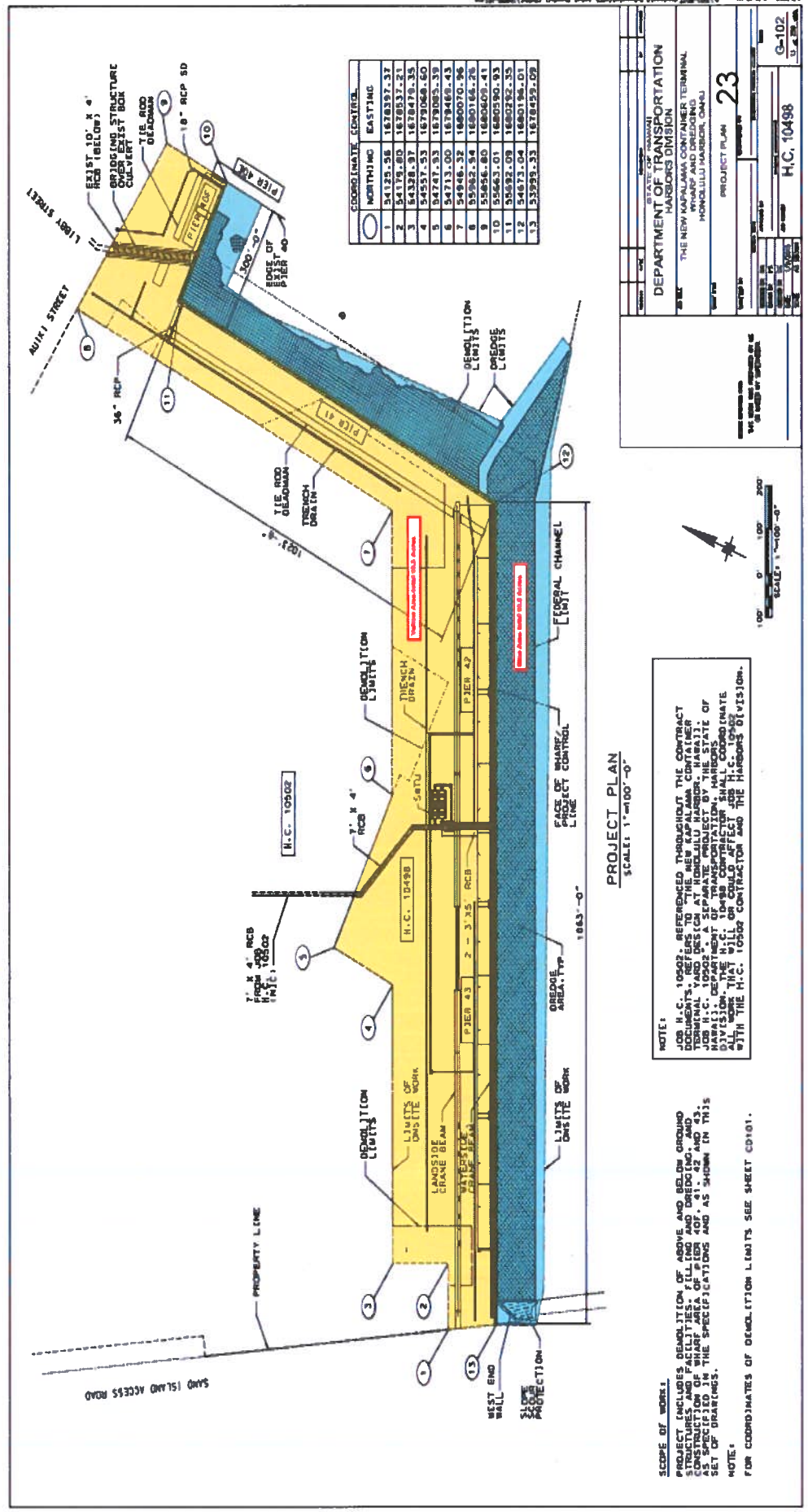
Original Project Construction Cost \$164M.



January 2, 2019

NEW KAPALAMA CONTAINER TERMINAL WHARF AND DREDGING – PHASE II

Estimated Project Construction Cost \$200M - \$300M.



VISIT OUR WEBSITE



Harbors Division
Department of Transportation
Aloha!

For the latest
information on:

- News.
- Vessel
schedules.
- Cargo stats.
- **PORT HAWAII**
Handbook.
- Contact
numbers.

Go to www.hawaii.gov/dot/harbors



Harbors Division
Department of Transportation
State of Hawaii

MEMORANDUM FOR RECORD

November 21, 2019

SUBJECT: Hawaii Commercial Harbors Authority Task Force – November 14, 2019 meeting summary (Meeting 4)

1. House Resolution No. 61 of the House of Representatives, Thirtieth Legislature, 2019 requests that the State of Hawaii DOT Harbors Division convene a task force to study the feasibility of establishing a Hawaii Commercial Harbors Authority.
2. On November 14, 2019, the Task Force (TF) held its fourth of five meetings at the Harbors Division (agenda attached). In attendance were Keith Regan, Andrew Garrett, Al Lardizabal (for Dayton Nakanelua), Rick Hartsell, Kuuhaku Park (and Nelisa Sato), and Derek Chow. Not in attendance were Robert Yu, Bob Masuda, Keith Kawaoka, Baba Ha'ole, and Richard Kamoe.
3. The agenda items for Meeting 4 were reviewed. Also reviewed agenda items for the upcoming Meeting 5, which is mainly to review the final report before it is sent to the Governor's office for review and transmittal to the Legislature.
4. Actions taken since the last meeting were discussed. It was noted that the UPW's input on "Potential Effects Upon State Harbor Public Civil Service Employees" was later added to the "cons" list. The tours of the ports of Long Beach, Oakland, Seattle and Tacoma were conducted during October 21-25; summary notes of the meetings and site visits were prepared and distributed to the TF (attached). The tour was informative. A copy of the draft TF report to the legislature was distributed by email to the TF members on November 12 (attached).
5. Derek reviewed the draft TF report section by section. Description of SB 1482 was removed from the report since the Bill had not been passed. There were no suggested revisions offered in the meeting. To date, letters/memos from agencies/organizations stating their position on the Authority were provided by HGEA, DOH, HTA and DLNR. Others were reminded to send their position letters/memos. Letters/memos received and not received will be reflected in the report. It was agreed that tables and charts were not necessary to explain the investigative work of the TF. It was agreed that a photo would be added to the cover page. Any further TF comments should be sent to Derek by November 29 for consideration in the final report. Since there were no suggested revisions, Derek agreed to provide the "near final" report to the TF ahead of the December 12 meeting.
6. In the December 12 meeting (Meeting 5), the near final report version will be reviewed. The final report will be transmitted to the Governor's office for their transmittal to the Legislature by the required dates.

DEREK J. CHOW
Deputy Director, Harbors Division

----- END -----



Harbors Division
Department of Transportation
State of Hawaii

Meeting 1 (Aug 22, 10:00am-12:00noon) – introductions, purpose of the task force, and scope of activities. Sharing of materials and information.

Meeting 2 (Sep 12, 9-11am) – Discussions of the pros and cons of a commercial harbor authority.

Meeting 3 (Oct 10, 9-11am) – Discussions on agency/organizations points of views. Discussion of report format, study findings, conclusions, and recommendations. Suspense of agency/organization written input into report.

Meeting 4 (Nov 14, 9-11am) – Review of draft task force report. Suspense of review comments.

Meeting 5 (Dec 12, 9-11am) – Final review of task force report to 2020 legislature.

Meeting 6 (Jan 9, 2020, 9-11am) – if necessary.

AGENDA

Meeting 1 – Introductions, purpose of task force, and scope of activities. Sharing of materials and information.

- I. INTRODUCTIONS
- II. PURPOSE OF MEETING
- III. PURPOSE OF TASK FORCE
- IV. SCOPE OF ACTIVITIES
- V. INFORMATION DISTRIBUTED
- VI. NEXT STEPS, PREPARATION FOR MEETING 2

Meeting 2 – Discussions of the pros and cons of a commercial harbor authority.

- I. REVIEW OF ACTIONS SINCE LAST MEETING
- II. *BRIEFING ON HAWAII'S HARBOR SYSTEM.*
- III. BRAINSTORMING OF PROS OF A COMMERCIAL HARBOR AUTHORITY.
- IV. BRAINSTORMING OF CONS OF A COMMERCIAL HARBOR AUTHORITY.
- V. GROUPING AND RANKING OF PROS AND CONS
- VI. BENEFICIARIES AND THOSE IMPACTED BY PROS AND CONS
- VII. NEXT STEPS, PREPARATION FOR MEETING 3

Meeting 3 - Discussions on agency/organizations points of views. Discussion of report format, study findings, conclusions, and recommendations. Suspense of agency/organization written input into report.

- I. REVIEW OF ACTIONS SINCE LAST MEETING
- II. AGENCY/ORGANIZATIONS POINTS OF VIEWS
- III. RISKS AND UNCERTAINTIES OF TRANSFORMATION TO A COMMERCIAL HARBOR AUTHORITY
- IV. RANKING OF RISKS AND UNCERTAINTIES
- V. REPORT FORMAT AND CONTENT
- VI. *PREPARE QUESTIONS FOR PORT AUTHORITY TOUR*
- VII. NEXT STEPS:
 - AGENCY/ORGANIZATIONS WRITTEN POSITION ON A COMMERCIAL HARBOR AUTHORITY – SUSPENSE TO TASK FORCE CHAIR ON OCTOBER 31, 2019
 - PREPARATION FOR MEETING 4 – REVIEW DRAFT REPORT

Meeting 4 - Review of draft task force report. Suspense of review comments.

- I. REVIEW OF ACTIONS SINCE LAST MEETING
- II. DISTRIBUTION/DISCUSSIONS OF DRAFT REPORT
- III. REVIEW COMMENTS TO DRAFT REPORT AND DISCUSS REPORT REVISION
- IV. REVIEW COMMENTS SUSPENSE TO TASK FOR CHAIR ON NOVEMBER 27, 2019
- V. NEXT STEPS
 - REVIEW COMMENTS SUBMISSION
 - REPORT REVISION
 - PREPARE FOR MEEETING 5

Meeting 5 - Final review of task force report to 2020 legislature.

- I. REVIEW OF ACTIONS SINCE LAST MEETING
- II. DISCUSSION OF FINAL REPORT
- III. SUPPORT OF REPORT
- IV. ACTIONS TO TRANSMIT TO LEGISLATURE

Representatives on the task force are:

Keith Regan, The Hawaii Tourism Authority;

Robert Yu, Dept of Budget and Finance;

Andrew Garrett, Department of Human Resources Development;

Bob Masuda, Department of Land and Natural Resources;

Keith Kawaoka, DOH, Environmental Health Administration;

William "Baba" Ha'ole, ILWU Local 142

Richard Kamoe, Hawaii Division of the ILWU;

Dayton Nakanelua, UPW;

Rick Hartsell, HGEA;

Kuuhaku Park, Hawaii Harbors Users Group;

Derek Chow, DOT Harbors Division (task force chairperson).



Harbors Division
Department of Transportation
State of Hawaii

MEMORANDUM FOR RECORD

November 4, 2019

SUBJECT: Harbors Deputy Director Summary Notes of the West Coast Port Authority Tour during October 21-25, 2019

1. Senate Bill 1482, Relating to the Hawaii Commercial Harbors Authority, was introduced in the 2019 Legislative session. The Bill described the conversion of the existing DOT Harbors Division into a Commercial Harbors Authority. The Bill was not passed by the 2019 Legislature.
2. As stated in Bill 1482, the coordinated planning and development of the State's commercial harbors system and infrastructure would be achieved more efficiently by establishing and giving a separate state entity overall jurisdiction and responsibility for marine operations and the State's commercial harbors.
3. While Bill 1482 was not passed, House Resolution No. 61 requested that the State of Hawaii DOT Harbors Division convene a task force to study the feasibility of establishing a Hawaii Commercial Harbors Authority.
4. The Hawaii Harbors User Group (HHUG), which its membership is made up of maritime industry companies, believes there are merits and benefits to the creation of a commercial harbors authority. HHUG has embarked on an effort to educate decision makers and stakeholders by arranging face-to-face meetings for HHUG members, labor, State legislators, DOT leadership, and supporting State agency leadership with port authorities at Long Beach, Oakland, Seattle and Tacoma; this includes members of the Task Force created in accordance with House Resolution No. 61.
5. Those participating in the west coast tour were:
 - Senate President Ron Kouchi (Long Beach and Oakland).
 - Representative Henry Aquino, Chair, House Transportation Committee (Long Beach).
 - Representative Ty Cullen, Vice Chair, House Finance Committee (Long Beach).
 - Jade Butay, Director, Department of Transportation.
 - Derek Chow, Deputy Director, DOT Harbors Division.
 - Ku'uhaku Park, Matson.
 - Lek Friel, Matson.
 - Nelisa Asato, Matson.
 - Sandra Larsen, Young Brothers.
 - Tiffanie Whithworth, Young Brothers.
 - Sandi Weir, NCL.
 - Lance Tanaka, Par Hawaii.
 - Keith Regan, Hawaii Tourism Authority.
 - Dayton Nakanelua, UPW.
 - Baba Ha'ole, ILWU.
 - Richard Kamoe, ILWU.
 - Mike Caswell, Pasha (LB and Oakland dinners).

A summary of discussions at each port are captured by the undersigned are as follows.

6. Port of Long Beach (October 21, 2019).

- **Organizational Structure**
 - Five (5) commissioners appointed by the Mayor.
 - Volunteer commission.
 - Executive director selected by commission.
 - Industrial/commercial port with public marina.
 - Cruise ship terminal outside of the port area for Carnival cruise line only. Single berth that is occupied 5 days a week. Terminal is the existing geodetic dome that formerly housed the spruce goose and converted into cruise terminal with upgrades.
 - Landlord port.
 - Long Beach Port Police report to Director of Security.
 - 108th birthday.
 - \$677M budget.
 - 62 berths.
 - 8.1M TEU.
 - \$4B capital program.
 - Owns rail lines and trucks within the port.
- **Governance**
 - Elected commission has some autonomy from the City of Long Beach.
 - Executive Director reports to the Commission.
 - ED hires staff.
 - Politically answers to County Council.
 - Budget approved by commission.
 - City Council approves Budget; Council can only approve or dis-approve budget, cannot make changes.
 - Governed under state public trust doctrine.
 - Funds generated from money collected in the port.
 - California Coastal Act governs use of coastal lands.
 - Tide Trust requires port to pay 5% of revenue generated to County.
 - Follows state and county laws.
 - Council approves bonds and land sales.
- **Technology**
 - Highly automated; automated cargo container tracking from truck to ship, paperless truck container delivery and receiving, uses manned-cranes, uses unmanned cargo container bomb carts, unmanned/remote control stacking cranes. Throughput increased with technology, labor hours increased with technology.
- **Labor**
 - ILWU provides traditional labor and also remote-control operator labor.
 - Port employees belong to union.
 - 1 in 5 jobs connected to port in some way.
 - Port supports 575,000 jobs.
- **Other**
 - Adapts to changes in industry.
 - Need to be sensitive to workforce.
 - \$1B rail expansion.
 - Have a former councilman with a diverse background.
 - Master plan updated in 1990.
 - Worlds 9th busiest port.
 - Shares entrance channels.

MFR – Harbors Deputy Director Summary Notes of the West Coast Port Authority Tour during October 21-25, 2019

- MOU for efficiencies.
- Competition between ports of Long Beach and Los Angeles.
- Competition between shippers.
- Costs but offers efficiency.
- Clean Air Action Plan
 - Diesel particulate down 87%.
 - 2030 zero emissions of cargo equipment.
 - New infrastructure.
 - Possible job reduction.
 - Increase in costs.
 - Climate adaptation
 - All ports have a plan.
 - Energy resiliency.
- Financing.
 - Enterprise funded.
 - \$2.3B in next 10 years.
 - \$1B debt.
 - AA rated.
 - Resiliency cash flow.
 - Has a contract compliance group.
 - 5% paid to City of Long Beach to be spend in City tidelands area.
 - \$3.7B invested in port in last 10 years.
 - More efficient; more customer friendly.
 - Minimum of 2X bond coverage ration; 600 days of cash on hand.
 - \$3M to community grants.
- Real Estate:
 - 700 agreements.
 - 500 joint agreements.
 - 200 Long Beach agreements.
 - 5 liquid bulk piers.
 - 6 container terminals.
 - Matson occupies 58 acres.
 - Typical terms of leases are 20-25 years.
- Port of Los Angeles actions all go to the City of Los Angeles for approval.

7. Port of Oakland (October 22-23, 2019).

- Organizational Structure
 - Port of Oakland set up differently than others.
 - Port is a City department.
 - Submerged lands belong to the State.
 - Landlord port.
 - Volunteer commission.
 - Led by Executive Director.
- Governance
 - Follows City charger.
 - People amended the City Charger and created the Port Department by taking governance from City Council. Port Commissioners are nominated by Mayor and approved by City Council.
 - Land leases limited to 66 years max.
 - Professional services contracting limited to \$250K; above \$250K goes to bid.
 - Construction limit to Port is \$50K; above goes to bid.
 - Commission hires director, attorney, secretary, and auditor.
 - Executive Director hires other directors.

MFR – Harbors Deputy Director Summary Notes of the West Coast Port Authority Tour during October 21-25, 2019

- All non-directors belong to union.
 - Can adopt ordinances.
 - Technology
 - Partially automated operations.
 - Labor
 - Project Labor Agreements (PLA)
 - Avoids labor disputes.
 - Timely work.
 - Social Responsibility Division
 - Promotes local hire; PLA's.
 - Port impacts 84,000 jobs in the area.
 - Approximately 70 employees.
 - Other
 - Wants tenants to pay for as much infrastructure as possible.
 - Living wage for port employees and contract workers.
 - High refrigerated export market.
 - 2.54 million TEUs
 - Security personnel deal with systems and operations security; no port police.
 - Industrial/commercial port with public marina.
 - No cruise ship terminal.
 - Pays 5% for use of tidelands.
 - SSA Terminals
 - Wants up to 20K TEU ships.
 - 23 ships a week.
 - 6,500 gate moves; approx. 4,500 day, 2,000 night.
 - Use truck fees and appointment system to control congestion and create efficiencies.
 - System controls congestion.
 - Berth 5 ships at once.
8. **Port of Seattle (October 24, 2019).**
- Organizational Structure
 - Elected commission.
 - Commission selects Executive Director.
 - Executive Director hires staff.
 - Tied to the Port of Tacoma through the Northwest Seaport Alliance (NSA).
 - Landlord port.
 - Port Police report to deputy director.
 - Collaborates with the Port of Tacoma.
 - Governance
 - The Port of Seattle is a stand-alone government, not subordinate to any other state or county agency.
 - Follows state laws
 - Does not report to governor or mayor
 - Hires its own staff.
 - Approves own budget and finance
 - Approves own procurement
 - Approves own land licenses
 - Acquires its own lands
 - Sells its own revenue bonds.
 - Shares revenues and costs with Port of Tacoma.
 - Manages Seattle/Tacoma airport
 - Some, not all, Port employees belong to union.

MFR – Harbors Deputy Director Summary Notes of the West Coast Port Authority Tour during October 21-25, 2019

- Has own law enforcement; reports to deputy.
- Responsible for economic development.
- Performs as an ecosystem, meaning it provides system of services.
- Has the authority to levy taxes.
- Port is decentralized from state and counties.
- It is a special independent entity with a special purpose.
- Levies 1.3% tax for Port revenues.
- Created in 1911 as a means to break away from the railroad control of shipping.
- In the absence of the NSA, the Port of Seattle and Port of Tacoma would compete.
- The NSA is complicated, not the most efficient, but addresses strategic goals.
- The NSA is a function of consensus.
- Has a community advisory group.
- Technology
 - Limited technology mostly associated with ingress and egress of operational areas.
- Labor.
 - Has project labor agreement (PLA) with dock workers.
- Other.
 - Real Estate
 - Invests in cruise, cargo and fishing terminals.
 - Recommends that in consideration of converting Harbors Division to an authority, keep in mind "what are you trying to achieve?"
 - What are your values?
 - There are 75 port districts in the state of Washington.
 - Never sells property, except when politically directed.
 - Port activities/shipping drive the economy and use of waterfront property.
 - Ports are really commercial entities.
 - Non-revenue generating activities.
 - Grants.
 - Workforce development.
 - Shipping Act allows competitors to discuss business but requires an agreement.
 - Revenues, profits and costs are shared between the Ports of Seattle and Tacoma.
 - An authority should establish clear goals, expectations, relationships, reliance or requirements to utilize other state agencies.
 - Port staff have grown to address issues as it relates to the communities.
 - PAO knowledgeable to answer/respond immediately.
 - Educates neighbors, communities, businesses, regulators, public officials.
 - Port staff recommends to Hawaii that we have more coordination and collaboration between industry and Harbors Division to address community concern and to promote education.
 - Government relations staff conduct lobbying.
 - Serves as a convener on issues and opportunities.
 - From site tour of terminals
 - Port of Seattle as large amounts of non-contiguous operational areas through the Seattle waterfront, along Harbor Island, and on the Duwamish River.
 - Does not utilize automation as this has not yet been discussed/negotiated with the ILWU.
 - Has a dedicated Matson area.

MFR – Harbors Deputy Director Summary Notes of the West Coast Port Authority Tour during October 21-25, 2019

- Has numerous gantry cranes, old, new, and unused.
- Handles 40% of the goods imported and exported out of Washington State.

9. **Port of Tacoma (October 25, 2019).**

- Organizational Structure
 - 5 elected commissioners.
 - Executive Director selected by commission.
 - Port Security reports to Operations.
- Governance
 - Different governance models.
 - California port model is authority nested in City of State – most common.
 - Washington ports are very different because of distrust of government.
 - Railroad bought up the harbors at the time the area was settled.
 - Airports were later added to the port authority.
 - Added industrial property.
 - 235 port commissioners oversee the 75 ports throughout Washington state.
 - The Northwest Seaport Alliance.
 - Investment decisions.
 - Land management.
 - Marketing messaging.
 - Investment needed are so expensive that you can't do it alone.
 - Washington citizens always want to retain power in its citizenry, not its government.
 - Alliance helped to improve political clout.
 - Role of commissioners should have a local connection but need to be able to think regionally.
- Technology
 - Limited. Group did not tour operations.
- Labor
- Other
 - Maritime focus.
 - Economic development.
 - Diversified port.
 - Climate change.
 - Energy issues.

10. **Hawaii's Harbor System (Port of Hawaii).** For comparison with the Ports of Long Beach, Oakland, Seattle, and Tacoma, the following is provided:

- Organizational Structure
 - Harbors Division of the State of Hawaii Department of Transportation.
 - Director of Transportation appointed by the Governor.
 - Deputy Director for Harbors Division appointed by the Governor.
 - Landlord port.
 - No terminal operators.
 - Cruise terminal owned and operated by Harbors Division.
- Governance
 - Reports to the Governor of Hawaii.
 - Revenues collected from maritime industry (tariffs, port fees, land leases) deposited in special state fund.
 - Budget approved by Governor then Legislature.
 - Appropriation set by the Legislature.
 - Funds allocations approved by Dept of Budget and Finance (B&F).

MFR – Harbors Deputy Director Summary Notes of the West Coast Port Authority Tour during October 21-25, 2019

- Contracts and procurement (services and goods approved by Department of Accounting and General Services (DAGS).
- Personnel actions approved by Department of Human Services and Development (DHRD).
- Public affairs support provided by Department of Transportation.
- Land leases and revocable permits approved by the Board of Land and Natural Resources.
- Technology
 - Limited technology throughout harbors.
 - May coordinate some cargo technology with Highways Division, e.g., moving scales.
 - Cargo technology responsibility of individual shipper.
 - All cargo equipment owned by industry.
 - Harbors Division maintains all port infrastructure (operational areas, utilities, permanent buildings, roads, piers).
- Labor
 - All Harbors Division employees belong to labor union (UPW and HGEA), except for appointed officials.
 - Dock workers belong to ILWU and has individual contracts with shipping companies.
- Other
 - Hawaii's Harbor System – 10 commercial harbors on 6 Hawaiian islands.
 - 99 percent of imported goods to Hawaii are shipped through Hawaii's commercial harbors.
 - 383 acres of operational and admin areas.
 - 45,515 LF of berth.
 - Shipping channels and turning basins owned and maintained by US Army Corps of Engineers.

11. **Chihuly Glass Museum (October 23, 2019).** The traveling party was hosted by the Chihuly Glass Museum at the Seattle Space Needle to visit the museum and meet with staff. Chihuly is considering the use of Pier 10, Honolulu Harbor for a new museum in Hawaii. No agreement has been drafted or executed. Considerations for best use of the Pier 10 area are being evaluated.



DEREK J. CHOW
Deputy Director, Harbors Division

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DRAFT

TASK FORCE REPORT ON THE FEASIBILITY OF A HAWAII COMMERCIAL HARBORS AUTHORITY

1. **INTRODUCTION.** As directed by House Resolution No. 61 of the House of Representatives, Thirtieth Legislature, 2019, the State of Hawaii DOT Harbors Division convened a task force to study the feasibility of establishing a Hawaii Commercial Harbors Authority (Appendix A). Senate Bill 1482, Relating to the Hawaii Commercial Harbors Authority (Appendix B), was considered in the 2019 legislative session but was not passed.

2. **TASK FORCE MEMBERS.** The Harbors Division Deputy Director convened a Task Force (TF) of entities prescribed by the House Resolution No. 61 (Resolution) to evaluate the feasibility of a Hawaii Commercial Harbors Authority (Authority). These included:

- The Hawaii Tourism Authority – Keith Regan, Chief Administrative Officer;
- Dept of Budget and Finance – Robert Yu, Deputy Director;
- Department of Human Resources Development – Andrew Garrett, Deputy Director;
- Department of Land and Natural Resources – Bob Masuda, Deputy Director;
- DOH, Environmental Health Administration – Keith Kawaoka, Deputy Director;
- ILWU Local 142, Hawaii Division – William “Baba” Ha’ole, Division Director;
- ILWU Local 142, Hawaii Division – Richard Kamoe, Vice Division Director;
- UPW – Dayton Nakanelua, Executive Director;
- HGEA – Rick Hartsell;
- Hawaii Harbors Users Group – Kuuhaku Park, Vice President of Government and Community Relations;
- DOT Harbors Division – Derek Chow, Deputy Director (task force chairperson).

3. **METHODOLOGY.** The TF membership agencies and organizations were prescribed by the Resolution. The agencies represented are directly or indirectly involved in the operations, maintenance, development, regulation, compliance and tourism of Hawaii’s harbors. The organizations represent state employees, longshoremen, and maritime.

The approach taken was to objectively research, gather, consider and openly discuss information related to existing port authorities that would help to inform TF members in deciding how an Authority would affect their constituents. The TF met monthly for five months from August 2019 to December 2019. The discussion topics were summarized for each meeting (Appendix C).

4. **PROS AND CONS.** In Meeting 2 and continuation in Meeting 3, TF members listed the following pros and cons to the conversion to a port authority.

Pros:

- Eliminating politics in decision making.
- Independence.
- Upgrade of neighbor island police.
- Consistent leadership.
- Leadership selected based on qualifications and not just political appointees.

Cons:

- A governing body with full authority to manage and operate the harbors and maritime systems only with efficiency in mind potentially means bypassing or amending current laws affecting the civil service and public sector collective bargaining with respect to elimination of the spoils systems and the

encouragement of openness, merit and independence.

5. **PORT AUTHORITY TOUR.** During October 21-25, 2019, the Hawaii Harbors User Group (HHUG) hosted a tour of four (4) port authorities to help the TF and other stakeholders understand the history, challenges, issues, benefits, operations, responsibilities, roles, interactions, etc.

The port authorities visited were Port of Long Beach, Port of Oakland, Port of Seattle, and Port of Tacoma. Each port was organized similarly with a board of commissioners, port director/executive director, numerous functional directors, and staff. All ports were mostly autonomous though with some administrative attachment to the city government.

TF members participating in the tours were Keith Regan, Baba Ha'ole, Richard Kamoe, Dayton Nakanelua, Kuuhaku Park, and Derek Chow. Other representatives from industry and DOT Director Butay also participated in the port tours. A copy of the tour summary is included in Appendix D.

Questions generated by the TF for port authorities included:

- What factors led to the creation of your port authority?
- What were the issues in the transition to a port authority?
- When did these issues happen and how long did it take to resolve?
- What are the cruise ship fees?
- What is the marine fire-fighting capabilities?
- How does the port authority interact with other agencies and organizations?
- What is the coordination, service connections, and authorities between the port authority and other government agencies?
- What is FAA's position on a port authority (related to those ports authorities that have both airport and harbors)?

6. **AGENCY AND ORGANIZATION POSITIONS AND CONCERNS.** Agencies and organizations represented by TF members provided positions and concerns about the Hawaii's Harbor System being converted to a port authority. Copies of the letters and memos are contained in Appendix E. The positions ranged from support to opposition of the conversion to an Authority. The following major concerns were expressed:

- **ORGANIZATION**
 - Need for marine firefighting capability for vessels less than 400 gross tons. Vessels above 400 gross tons have marine firefighting and salvage contingencies in their Vessel Response Plans. Concern is that the vessels less than 400 gross tons are vulnerable to fire threats.
 - Fail to see the change to a Harbor Authority as a reduction in bureaucracy.
 - The creation of a new level of government or a quasi-government agency, instead of the improvements to the existing structure, seems contradictory.
 - Maintain the Division of Boating and Ocean Recreation (DOBOR) agency under the auspices of the Department of Land and Natural Resources and not transfer DOBOR to the Authority.
- **GOVERNANCE**
 - Funding to support operations and infrastructure should be provided at a level that will allow the DOT Harbors Division to serve the needs of the public without interruption.
 - Other options, beyond the creation of a commercial harbors authority, may exist for DOT to consider that will address procurement and budgetary issues.

- More focus should be placed on succession and continuity planning to ensure uninterrupted operations of the DOT Harbors Division.
- DOT Harbors Division should request resources to bolster and grow their environmentally-focused programs.
- DOT should explore economic development opportunities on existing property that may allow for additional revenue generation.
- DOT should consider increasing engagement and collaboration with government, community, and industry stakeholders will further improve the understanding of the role played by Hawaii's commercial ports and may help improve relationships.
- **LABOR**
 - A completely autonomous Harbors Authority and board members with unlimited powers could negatively affect the job security of our members.
 - Exemption from the procurement process, financial solvency and myriad other circumstances could result in a once profitable operation experiencing financial shortfalls that could translate to worker layoffs or job losses.
 - Governance by a politically insulated authority is not likely to benefit our members.
 - Private entities, even partially, managing State employees and land is one step closer to complete privatization. This process could lead to a loss of civil service protection and Union recognition for workers.
 - The Port Authority should be administratively attached to the Department of Transportation and that civil service employees remain in their existing bargaining units with no changes in rights or benefits.
 - That a perpetuity clause be included which guarantees civil service rights and benefits for any employees transferred to the Port Authority.
 - Complete adherence to collective bargaining rights as outline in Chapter 89, HRS.
 - Any new positions created as a result of the transfer, to the fullest extent possible, be civil service positions as opposed to exempt from civil service positions.
 - That the existing hiring process for civil service positions, as prescribed by the Department of Human Resource Development, be used for vacancies within the Port Authority.
 - Labor Union membership, with voting rights, on the Harbor Authority.
 - Improving the efficiency and effectiveness of operations at our commercial ports throughout the State of Hawaii is paramount.
 - Public and private sector union concerns must be considered and addressed before advancing legislation.
- **ENVIRONMENT**
 - Active pipelines shall be maintained. Unused and inactive pipelines should be drained and removed to prevent releases to harbor waters.
 - Reduce diesel particulates by requiring vessels to use cleaner fuels.
 - Need better accountability of users of the waste oil collection sites and prevent illegal dumping and releases into harbor waters.
 - DLNR recommends including aquatic biosecurity considerations, specifically processes to prevent the introduction and/or transfer of aquatic non-indigenous organisms into and around the State from ballast water and biofouling.
 - Recommend further research and consideration to the Vessel Incidental Discharge Act (VIDA) of 2018 to determine effect on commercial harbors operations and processes.

7. **CONCLUSIONS.** The House Resolution instructed the Task Force to study the feasibility of establishing a Hawaii Commercial Harbors Authority. In discussions, it was agreed that if there were not unanimous agreement in support or opposition to the creation of an Authority, the TF report would reflect the view points of each agency and organization. It was also discussed that there may be sufficient findings, agreements or recommendations to improve specific state laws, policies, procedures, or practices without the conversion to an Authority that should be seriously considered and that may result in significant improvements that would achieve the streamlining and improvements in lieu of conversion to an Authority.

Given the view points of each of the Task Force agencies and organizations, it cannot be unanimously concluded that the Hawaii's Harbor System should be converted to a Hawaii Commercial Harbors Authority at least without addressing the remaining concerns.

8. **RECOMMENDATIONS.** The Task Force, as required by House Resolution No. 61, recommends that the conversion of Hawaii's Harbors System to a Hawaii Commercial Harbors Authority be further evaluated based on the concerns expressed by the agencies and organizations represented by the Task Force.



Harbors Division
Department of Transportation
State of Hawaii

MEMORANDUM FOR RECORD

December 12, 2019

SUBJECT: Hawaii Commercial Harbors Authority Task Force – December 12, 2019 meeting summary (Meeting 5 – final meeting)

1. House Resolution No. 61 of the House of Representatives, Thirtieth Legislature, 2019 requests that the State of Hawaii DOT Harbors Division convene a task force to study the feasibility of establishing a Hawaii Commercial Harbors Authority.
2. On December 12, 2019, the Task Force (TF) held its last of five meetings at the Harbors Division. In attendance were Keith Regan, Andrew Garrett, Bob Masuda, Keith Kawaoka, Dayton Nakanelua (and Al Lardizabal), Rick Hartsell, Nelisa Sato (for Kuuhaku Park), and Derek Chow. Not in attendance were Robert Yu, Baba Ha'ole, and Richard Kamoe.
3. The agenda items for Meeting 5 were reviewed. This is the last of the TF meetings.
4. Actions taken since the last meeting were discussed. Additional letters were received and edits to the draft report were made.
5. Derek reviewed the near final draft TF report (see attached) and appendices. Clarifications will be made to paragraph 3 that the TF met once in a month, and to paragraph 5 that state legislators participated in the west coast port authorities tour. Letters/memos from agencies/organizations stating their position on the Authority were received from DOH, HGEA, HTA, DLNR, UPW and DHRD. The HHUG indicated that they will be providing a letter by December 13; this letter will be shared with the TF. Letters/memos received and not received will be reflected in the report.
6. Derek will transmit the final report to the legislature through the Governor's office on December 16. The report is due to the legislature 20 days before the start of the 2020 legislative session. The report package will contain a cover page and transmittal letter to the legislature. Upon the final report being transmitted to the legislature, a copy will be sent to all TF members. The report is over 200 pages long, including appendices, with the body of the report being about 5 pages long.
7. The time, effort, thought, and discussions of the TF are appreciated and resulted in the report.

A handwritten signature in black ink, appearing to read 'Derek J. Chow', is located below the list of items.

DEREK J. CHOW
Deputy Director, Harbors Division

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TASK FORCE REPORT ON THE FEASIBILITY OF A HAWAII COMMERCIAL HARBORS AUTHORITY

1. **INTRODUCTION.** House Resolution No. 61 of the House of Representatives, Thirtieth Legislature, 2019, requested that Harbors Division of the Department of Transportation (DOT) convene a task force to study the feasibility of establishing a Hawaii Commercial Harbors Authority (Appendix A).
2. **TASK FORCE MEMBERS.** The Harbors Division Deputy Director convened a Task Force (TF) of entities prescribed by the House Resolution No. 61 ("Resolution") to evaluate the feasibility of a Hawaii Commercial Harbors Authority ("Authority"). TF members were sought voluntarily from each of the agencies/organizations identified in the Resolution. These included:
 - The Hawaii Tourism Authority – Keith Regan, Chief Administrative Officer;
 - The Department of Budget and Finance – Robert Yu, Deputy Director;
 - The Department of Human Resources Development – Andrew Garrett, Deputy Director;
 - The Department of Land and Natural Resources (DLNR) – Bob Masuda, Deputy Director;
 - The Environmental Health Administration of the Department of Health – Keith Kawaoka, Deputy Director;
 - The International Longshore and Warehouse Union (ILWU), Local 142 – William "Baba" Ha'ole, Hawaii Longshore Division Director;
 - The Hawaii Longshore Division of ILWU, Local 142 – Richard Kamoe, Vice Division Director;
 - United Public Workers, Local 646 – Dayton Nakanelua, State Director;
 - The Hawaii Government Employee Association, Local 152 – Rick Hartsell, Union Agent;
 - The Hawaii Harbors Users Group – Kuuhaku Park, Vice President of Government and Community Relations, Matson, Inc.;
 - DOT Harbors Division – Derek Chow, Deputy Director (Task Force Chairperson).
3. **METHODOLOGY.** The TF agencies and organizations were prescribed by the Resolution. The agencies represented are directly or indirectly involved in the operations, maintenance, development, regulation, compliance and tourism within Hawaii's harbors. The TF membership represent state employees, state procedures, longshore workers, and the maritime industry.

The approach taken was to objectively research, gather, consider and openly discuss information related to existing port authorities that would help to inform TF members in deciding how an Authority would affect their constituents. The TF met monthly for five months from August 2019 to December 2019. The discussion topics were summarized for each meeting (Appendix B).

In addition to the research and meetings, the TF was invited to participate in a West Coast port authority tour hosted by the Hawaii Harbors User Group (HHUG) to gain first hand insights of port authorities.

4. PROS AND CONS. Pros and cons of the creation of an Authority were discussed throughout the TF meetings. The Pros and Cons are summarized as follows.

- Pros:
 - Eliminating politics in decision making.
 - Independence.
 - Upgrade of neighbor island police.
 - Consistent leadership.
 - Leadership selected based on qualifications and not just political appointees.
- Cons:
 - A governing body with full authority to manage and operate the harbors and maritime systems only with efficiency in mind potentially means bypassing or amending current laws affecting the civil service and public sector collective bargaining with respect to elimination of the spoils systems and the encouragement of openness, merit and independence.

5. PORT AUTHORITY TOUR. During October 21-25, 2019, the HHUG hosted a tour of four (4) port authorities to help the TF members and other stakeholders understand the history, challenges, issues, benefits, operations, responsibilities, roles, interactions, etc. of other port authorities.

The port authorities visited were the Port of Long Beach, Port of Oakland, Port of Seattle, and Port of Tacoma. Each port was organized similarly with a board of commissioners, port director/executive director, numerous functional directors, and staff. Although, all ports were mostly autonomous, each had some administrative attachment to their city government.

TF members participating in the tours were Derek Chow, Keith Regan, Baba Ha'ole, Richard Kamoe, Dayton Nakanelua, and Kuuhaku Park. Other representatives from industry and DOT Director Jade Butay also participated in the port tours. A copy of the tour summary is included in Appendix C.

Questions generated by the TF for port authorities included:

- What factors led to the creation of your port authority?
- What were the issues in the transition to a port authority?
- When did these issues happen and how long did it take to resolve?
- What are the cruise ship fees?
- What is the marine fire-fighting capabilities?
- How does the port authority interact with other agencies and organizations?
- What is the coordination, service connections, and authorities between the port authority and other government agencies?

- What is the Federal Aviation Administration's position on a port authority (related to those ports authorities that have both airport and harbors)?

6. **AGENCY AND ORGANIZATION POSITIONS AND CONCERNS.** Agencies and organizations represented by TF members provided positions and concerns about the creation of a Hawaii Commercial Harbors Authority. Copies of the letters and memos are contained in Appendix D. The positions ranged from support to opposition of the creation of an Authority. The following major concerns expressed are summarized as follows.

- **ORGANIZATION:**
 - Need for marine firefighting capability for vessels less than 400 gross tons.
 - Fail to see the change to a Harbor Authority as a reduction in bureaucracy.
 - The creation of a new level of government or a quasi-government agency, instead of the improvements to the existing structure, seems contradictory.
 - Maintain the Division of Boating and Ocean Recreation (DOBOR) agency under the auspices of the Department of Land and Natural Resources and not transfer DOBOR to the Authority.
- **GOVERNANCE:**
 - Funding to support operations and infrastructure should be provided at a level that will allow the DOT Harbors Division to serve the needs of the public without interruption.
 - Other options, beyond the creation of a commercial harbors authority, may exist for DOT to consider that will address procurement and budgetary issues.
 - More focus should be placed on succession and continuity planning to ensure uninterrupted operations of the DOT Harbors Division.
 - DOT Harbors Division should request resources to bolster and grow their environmentally-focused programs.
 - DOT should explore economic development opportunities on existing property that may allow for additional revenue generation.
 - DOT should consider increasing engagement and collaboration with government, community, and industry stakeholders will further improve the understanding of the role played by Hawaii's commercial ports and may help improve relationships.
 - Improving the efficiency and effectiveness of operations at our commercial ports throughout the State of Hawaii is paramount.
- **LABOR:**
 - A completely autonomous Harbors Authority and board members with unlimited powers could negatively affect the job security of our members.
 - Exemption from the procurement process, financial solvency and myriad other circumstances could result in a once profitable operation experiencing financial shortfalls that could translate to worker layoffs or job losses.
 - Governance by a politically insulated authority is not likely to benefit our members.

- Private entities, even partially, managing State employees and land is one step closer to complete privatization. This process could lead to a loss of civil service protection and Union recognition for workers.
- The Port Authority should be administratively attached to the Department of Transportation and that civil service employees remain in their existing bargaining units with no changes in rights or benefits.
- That a perpetuity clause be included which guarantees civil service rights and benefits for any employees transferred to the Port Authority.
- Complete adherence to collective bargaining rights as outline in Chapter 89, HRS.
- Any new positions created as a result of the transfer, to the fullest extent possible, be civil service positions as opposed to exempt from civil service positions.
- That the existing hiring process for civil service positions, as prescribed by the Department of Human Resource Development, be used for vacancies within the Port Authority.
- Labor Union membership, with voting rights, on the Harbor Authority.
- Public and private sector union concerns must be considered and addressed before advancing legislation.
- The proposed SB1482 (deferred) excludes a Labor representative commission position.
- It is important to determine the civil service status of current and future DOT-Harbors employees.
- DOT-Harbors will need guidance on whether any newly-created positions (civil service and exempt) shall be filled by policies prescribed by DHRD.
- **ENVIRONMENT:**
 - Active pipelines shall be maintained. Unused and inactive pipelines should be drained and removed to prevent releases to harbor waters.
 - Reduce diesel particulates by requiring vessels to use cleaner fuels.
 - Need better accountability of users of the waste oil collection sites and prevent illegal dumping and releases into harbor waters.
 - DLNR recommends including aquatic biosecurity considerations, specifically processes to prevent the introduction and/or transfer of aquatic non-indigenous organisms into and around the State from ballast water and biofouling.
 - Recommend further research and consideration to the Vessel Incidental Discharge Act (VIDA) of 2018 to determine effect on commercial harbors operations and processes.

7. **CONCLUSIONS.** The House Resolution instructed the Task Force to study the feasibility of establishing a Hawaii Commercial Harbors Authority. In discussions, it was agreed that if there were not unanimous agreement in support of or opposition to the creation of an Authority, the TF report would reflect the view points of each agency and organization. It was also discussed that there may be sufficient findings, agreements or recommendations to improve specific state laws, policies, procedures, or practices

without the creation of an Authority that should be seriously considered and implemented within the existing State system and that may result in significant improvements that would achieve the streamlining and improvements intended by the creation of an Authority.

Given the view points of each of the Task Force agencies and organizations, it cannot be concluded that a Hawaii Commercial Harbors Authority should be created at this time without addressing the remaining concerns.

8. RECOMMENDATIONS. The Task Force, as required by House Resolution No. 61, recommends that the creation of a Hawaii Commercial Harbors Authority be further evaluated based on the concerns expressed by the agencies and organizations represented by the Task Force.

APPENDIX C

WEST COAST PORT AUTHORITY TOUR SUMMARY



Harbors Division
Department of Transportation
State of Hawaii

MEMORANDUM FOR RECORD

November 4, 2019

SUBJECT: Harbors Deputy Director Summary Notes of the West Coast Port Authority Tour during October 21-25, 2019

1. Senate Bill 1482, Relating to the Hawaii Commercial Harbors Authority, was introduced in the 2019 Legislative session. The Bill described the conversion of the existing DOT Harbors Division into a Commercial Harbors Authority. The Bill was not passed by the 2019 Legislature.
2. As stated in Bill 1482, the coordinated planning and development of the State's commercial harbors system and infrastructure would be achieved more efficiently by establishing and giving a separate state entity overall jurisdiction and responsibility for marine operations and the State's commercial harbors.
3. While Bill 1482 was not passed, House Resolution No. 61 requested that the State of Hawaii DOT Harbors Division convene a task force to study the feasibility of establishing a Hawaii Commercial Harbors Authority.
4. The Hawaii Harbors User Group (HHUG), which its membership is made up of maritime industry companies, believes there are merits and benefits to the creation of a commercial harbors authority. HHUG has embarked on an effort to educate decision makers and stakeholders by arranging face-to-face meetings for HHUG members, labor, State legislators, DOT leadership, and supporting State agency leadership with port authorities at Long Beach, Oakland, Seattle and Tacoma; this includes members of the Task Force created in accordance with House Resolution No. 61.
5. Those participating in the west coast tour were:
 - Senate President Ron Kouchi (Long Beach and Oakland).
 - Representative Henry Aquino, Chair, House Transportation Committee (Long Beach).
 - Representative Ty Cullen, Vice Chair, House Finance Committee (Long Beach).
 - Jade Butay, Director, Department of Transportation.
 - Derek Chow, Deputy Director, DOT Harbors Division.
 - Ku'uhaku Park, Matson.
 - Lek Friel, Matson.
 - Nelisa Asato, Matson.
 - Sandra Larsen, Young Brothers.
 - Tiffanie Whithworth, Young Brothers.
 - Sandi Weir, NCL.
 - Lance Tanaka, Par Hawaii.
 - Keith Regan, Hawaii Tourism Authority.
 - Dayton Nakanelua, UPW.
 - Baba Ha'ole, ILWU.
 - Richard Kamoe, ILWU.
 - Mike Caswell, Pasha (LB and Oakland dinners).

A summary of discussions at each port are captured by the undersigned are as follows.

6. Port of Long Beach (October 21, 2019).

- **Organizational Structure**
 - Five (5) commissioners appointed by the Mayor.
 - Volunteer commission.
 - Executive director selected by commission.
 - Industrial/commercial port with public marina.
 - Cruise ship terminal outside of the port area for Carnival cruise line only. Single berth that is occupied 5 days a week. Terminal is the existing geodetic dome that formerly housed the spruce goose and converted into cruise terminal with upgrades.
 - Landlord port.
 - Long Beach Port Police report to Director of Security.
 - 108th birthday.
 - \$677M budget.
 - 62 berths.
 - 8.1M TEU.
 - \$4B capital program.
 - Owns rail lines and trucks within the port.
- **Governance**
 - Elected commission has some autonomy from the City of Long Beach.
 - Executive Director reports to the Commission.
 - ED hires staff.
 - Politically answers to County Council.
 - Budget approved by commission.
 - City Council approves Budget; Council can only approve or dis-approve budget, cannot make changes.
 - Governed under state public trust doctrine.
 - Funds generated from money collected in the port.
 - California Coastal Act governs use of coastal lands.
 - Tide Trust requires port to pay 5% of revenue generated to County.
 - Follows state and county laws.
 - Council approves bonds and land sales.
- **Technology**
 - Highly automated; automated cargo container tracking from truck to ship, paperless truck container delivery and receiving, uses manned-cranes, uses unmanned cargo container bomb carts, unmanned/remote control stacking cranes. Throughput increased with technology, labor hours increased with technology.
- **Labor**
 - ILWU provides traditional labor and also remote-control operator labor.
 - Port employees belong to union.
 - 1 in 5 jobs connected to port in some way.
 - Port supports 575,000 jobs.
- **Other**
 - Adapts to changes in industry.
 - Need to be sensitive to workforce.
 - \$1B rail expansion.
 - Have a former councilman with a diverse background.
 - Master plan updated in 1990.
 - Worlds 9th busiest port.
 - Shares entrance channels.

MFR – Harbors Deputy Director Summary Notes of the West Coast Port Authority Tour during October 21-25, 2019

- MOU for efficiencies.
- Competition between ports of Long Beach and Los Angeles.
- Competition between shippers.
- Costs but offers efficiency.
- Clean Air Action Plan
 - Diesel particulate down 87%.
 - 2030 zero emissions of cargo equipment.
 - New infrastructure.
 - Possible job reduction.
 - Increase in costs.
 - Climate adaptation
 - All ports have a plan.
 - Energy resiliency.
- Financing.
 - Enterprise funded.
 - \$2.3B in next 10 years.
 - \$1B debt.
 - AA rated.
 - Resiliency cash flow.
 - Has a contract compliance group.
 - 5% paid to City of Long Beach to be spend in City tidelands area.
 - \$3.7B invested in port in last 10 years.
 - More efficient; more customer friendly.
 - Minimum of 2X bond coverage ration; 600 days of cash on hand.
 - \$3M to community grants.
- Real Estate:
 - 700 agreements.
 - 500 joint agreements.
 - 200 Long Beach agreements.
 - 5 liquid bulk piers.
 - 6 container terminals.
 - Matson occupies 58 acres.
 - Typical terms of leases are 20-25 years.
- Port of Los Angeles actions all go to the City of Los Angeles for approval.

7. Port of Oakland (October 22-23, 2019).

- Organizational Structure
 - Port of Oakland set up differently than others.
 - Port is a City department.
 - Submerged lands belong to the State.
 - Landlord port.
 - Volunteer commission.
 - Led by Executive Director.
- Governance
 - Follows City charger.
 - People amended the City Charger and created the Port Department by taking governance from City Council. Port Commissioners are nominated by Mayor and approved by City Council.
 - Land leases limited to 66 years max.
 - Professional services contracting limited to \$250K; above \$250K goes to bid.
 - Construction limit to Port is \$50K; above goes to bid.
 - Commission hires director, attorney, secretary, and auditor.
 - Executive Director hires other directors.

MFR – Harbors Deputy Director Summary Notes of the West Coast Port Authority Tour during October 21-25, 2019

- All non-directors belong to union.
 - Can adopt ordinances.
 - Technology
 - Partially automated operations.
 - Labor
 - Project Labor Agreements (PLA)
 - Avoids labor disputes.
 - Timely work.
 - Social Responsibility Division
 - Promotes local hire; PLA's.
 - Port impacts 84,000 jobs in the area.
 - Approximately 70 employees.
 - Other
 - Wants tenants to pay for as much infrastructure as possible.
 - Living wage for port employees and contract workers.
 - High refrigerated export market.
 - 2.54 million TEUs
 - Security personnel deal with systems and operations security; no port police.
 - Industrial/commercial port with public marina.
 - No cruise ship terminal.
 - Pays 5% for use of tidelands.
 - SSA Terminals
 - Wants up to 20K TEU ships.
 - 23 ships a week.
 - 6,500 gate moves; approx. 4,500 day, 2,000 night.
 - Use truck fees and appointment system to control congestion and create efficiencies.
 - System controls congestion.
 - Berth 5 ships at once.
8. **Port of Seattle (October 24, 2019).**
- Organizational Structure
 - Elected commission.
 - Commission selects Executive Director.
 - Executive Director hires staff.
 - Tied to the Port of Tacoma through the Northwest Seaport Alliance (NSA).
 - Landlord port.
 - Port Police report to deputy director.
 - Collaborates with the Port of Tacoma.
 - Governance
 - The Port of Seattle is a stand-alone government, not subordinate to any other state or county agency.
 - Follows state laws
 - Does not report to governor or mayor
 - Hires its own staff.
 - Approves own budget and finance
 - Approves own procurement
 - Approves own land licenses
 - Acquires its own lands
 - Sells its own revenue bonds.
 - Shares revenues and costs with Port of Tacoma.
 - Manages Seattle/Tacoma airport
 - Some, not all, Port employees belong to union.

MFR – Harbors Deputy Director Summary Notes of the West Coast Port Authority Tour during October 21-25, 2019

- Has own law enforcement; reports to deputy.
- Responsible for economic development.
- Performs as an ecosystem, meaning it provides system of services.
- Has the authority to levy taxes.
- Port is decentralized from state and counties.
- It is a special independent entity with a special purpose.
- Levies 1.3% tax for Port revenues.
- Created in 1911 as a means to break away from the railroad control of shipping.
- In the absence of the NSA, the Port of Seattle and Port of Tacoma would compete.
- The NSA is complicated, not the most efficient, but addresses strategic goals.
- The NSA is a function of consensus.
- Has a community advisory group.
- Technology
 - Limited technology mostly associated with ingress and egress of operational areas.
- Labor.
 - Has project labor agreement (PLA) with dock workers.
- Other.
 - Real Estate
 - Invests in cruise, cargo and fishing terminals.
 - Recommends that in consideration of converting Harbors Division to an authority, keep in mind "what are you trying to achieve?"
 - What are your values?
 - There are 75 port districts in the state of Washington.
 - Never sells property, except when politically directed.
 - Port activities/shipping drive the economy and use of waterfront property.
 - Ports are really commercial entities.
 - Non-revenue generating activities.
 - Grants.
 - Workforce development.
 - Shipping Act allows competitors to discuss business but requires an agreement.
 - Revenues, profits and costs are shared between the Ports of Seattle and Tacoma.
 - An authority should establish clear goals, expectations, relationships, reliance or requirements to utilize other state agencies.
 - Port staff have grown to address issues as it relates to the communities.
 - PAO knowledgeable to answer/respond immediately.
 - Educates neighbors, communities, businesses, regulators, public officials.
 - Port staff recommends to Hawaii that we have more coordination and collaboration between industry and Harbors Division to address community concern and to promote education.
 - Government relations staff conduct lobbying.
 - Serves as a convener on issues and opportunities.
 - From site tour of terminals
 - Port of Seattle as large amounts of non-contiguous operational areas through the Seattle waterfront, along Harbor Island, and on the Duwamish River.
 - Does not utilize automation as this has not yet been discussed/negotiated with the ILWU.
 - Has a dedicated Matson area.

- Has numerous gantry cranes, old, new, and unused.
- Handles 40% of the goods imported and exported out of Washington State.

9. **Port of Tacoma (October 25, 2019).**

- Organizational Structure
 - 5 elected commissioners.
 - Executive Director selected by commission.
 - Port Security reports to Operations.
- Governance
 - Different governance models.
 - California port model is authority nested in City of State – most common.
 - Washington ports are very different because of distrust of government.
 - Railroad bought up the harbors at the time the area was settled.
 - Airports were later added to the port authority.
 - Added industrial property.
 - 235 port commissioners oversee the 75 ports throughout Washington state.
 - The Northwest Seaport Alliance.
 - Investment decisions.
 - Land management.
 - Marketing messaging.
 - Investment needed are so expensive that you can't do it alone.
 - Washington citizens always want to retain power in its citizenry, not its government.
 - Alliance helped to improve political clout.
 - Role of commissioners should have a local connection but need to be able to think regionally.
- Technology
 - Limited. Group did not tour operations.
- Labor
- Other
 - Maritime focus.
 - Economic development.
 - Diversified port.
 - Climate change.
 - Energy issues.

10. **Hawaii's Harbor System (Port of Hawaii).** For comparison with the Ports of Long Beach, Oakland, Seattle, and Tacoma, the following is provided:

- Organizational Structure
 - Harbors Division of the State of Hawaii Department of Transportation.
 - Director of Transportation appointed by the Governor.
 - Deputy Director for Harbors Division appointed by the Governor.
 - Landlord port.
 - No terminal operators.
 - Cruise terminal owned and operated by Harbors Division.
- Governance
 - Reports to the Governor of Hawaii.
 - Revenues collected from maritime industry (tariffs, port fees, land leases) deposited in special state fund.
 - Budget approved by Governor then Legislature.
 - Appropriation set by the Legislature.
 - Funds allocations approved by Dept of Budget and Finance (B&F).

MFR – Harbors Deputy Director Summary Notes of the West Coast Port Authority Tour during October 21-25, 2019

- Contracts and procurement (services and goods approved by Department of Accounting and General Services (DAGS).
- Personnel actions approved by Department of Human Services and Development (DHRD).
- Public affairs support provided by Department of Transportation.
- Land leases and revocable permits approved by the Board of Land and Natural Resources.
- Technology
 - Limited technology throughout harbors.
 - May coordinate some cargo technology with Highways Division, e.g., moving scales.
 - Cargo technology responsibility of individual shipper.
 - All cargo equipment owned by industry.
 - Harbors Division maintains all port infrastructure (operational areas, utilities, permanent buildings, roads, piers).
- Labor
 - All Harbors Division employees belong to labor union (UPW and HGEA), except for appointed officials.
 - Dock workers belong to ILWU and has individual contracts with shipping companies.
- Other
 - Hawaii's Harbor System – 10 commercial harbors on 6 Hawaiian islands.
 - 99 percent of imported goods to Hawaii are shipped through Hawaii's commercial harbors.
 - 383 acres of operational and admin areas.
 - 45,515 LF of berth.
 - Shipping channels and turning basins owned and maintained by US Army Corps of Engineers.

11. **Chihuly Glass Museum (October 23, 2019).** The traveling party was hosted by the Chihuly Glass Museum at the Seattle Space Needle to visit the museum and meet with staff. Chihuly is considering the use of Pier 10, Honolulu Harbor for a new museum in Hawaii. No agreement has been drafted or executed. Considerations for best use of the Pier 10 area are being evaluated.



DEREK J. CHOW
Deputy Director, Harbors Division

----- END -----

APPENDIX D

AGENCY AND ORGANIZATION POSITIONS AND CONCERNS

RECEIVED

Department of Health, State of Hawaii, October 29, 2019

Hawaii Government Employees Association, October 31, 2019

Hawaii Tourism Authority, November 5, 2019

**Department of Land and Natural Resources, State of Hawaii,
November 5, 2019**

United Public Workers' Union, November 20, 2019

**Department of Human Resources Development, State of Hawaii,
November 26, 2019**

Hawaii Harbors User Group, December 16, 2019

NOT RECEIVED

International Longshore and Warehouse Union

Department of Budget and Finance

20.0172

DAVID Y. IGE
GOVERNOR OF HAWAII



BRUCE S. ANDERSON, Ph.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:

HARBORS DIVISION

19 NOV -4 P1:12

October 29, 2019

Mr. Derek J. Chow
Deputy Director, Harbors Division
State of Hawaii Department of Transportation
79 S. Nimitz Hwy (Pier 11)
Honolulu, Hawaii 96813-4898

Subject: Hawaii Commercial Harbors Authority Task Force (House Resolution No. 61 of the House of Representatives, Thirtieth Legislature, 2019)

Dear Mr. Chow:

Department of Health (DOH) appreciates the task force's participation and the overall collaborative effort the team put forth. DOH is in general support of the Commercial Harbors Authority concept. Many items were considered, and we all agree that the concept should be carried forward for further evaluation.

For example, a few environmental and safety issues were identified, and improvements needed going forward:

Safety and Marine Firefighting:

The State currently lacks a marine firefighting capability for vessels less than 400 gross tons. The federal government requires vessels above 400 gross tons to have a marine firefighting and salvage contingencies addressed in their Vessel Response Plans. Vessels less than 400 gross tons are not required to have such contingencies. Vessels such as cruise ships, tour boats, commercial fishing boats, and recreational vessels that frequent our harbors are vulnerable to fire threats and there have been many past and recent examples of vessels catching on fire.

The State used to have a fire boat to respond to marine fires; HRS 266-22, Maintenance of Fire Boat, states, "the cost of operating and maintaining the fire boat

Mr. Derek J. Chow
October 29, 2019
Page 2

shall be borne by the department of transportation. The department shall pay annually from its special fund for the operation and maintenance costs." It is unknown at this time if funds are still being collected and what is the current status of the funds that had been collected over the past years.

While City and County of Honolulu used to have firefighters that manned the State's fire boat, the County is now very limited in its capability to conduct marine firefighting and are only capable to fight fires pier side. Other counties do not have any marine firefighting capabilities.

A comprehensive plan and funding for marine fire responses need to be addressed to support our resiliency and ability to return to normal operations following an incident.

Pipelines:

State should require that active pipelines be maintained and unused and inactive pipelines to be drained and removed to prevent releases to our harbor waters.

Port-related air emissions:

Diesel particulates can be reduced by requiring vessels to use cleaner fuel.

Waste Oil Collection Sites:

Better accountability of users of the collection sites will prevent illegal dumping and releases into our harbor waters.

Again, DOH appreciates the task force's participation and we look forward to working closely together to further evaluate the Commercial Harbors Authority concept.

Sincerely,



KEITH E. KAWAOKA, D.Env.
Deputy Director for Environmental Health



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

October 31, 2019

Mr. Derek J. Chow
Deputy Director, Harbors Division
State Department of Transportation
79 South Nimitz Highway, Pier 11
Honolulu, Hawaii 96813

SUBJECT: Hawaii Government Employees Association Position Paper Regarding the
Creation of a Hawaii Commercial Harbors Authority

Dear Mr. Chow:

As a Hawaii Commercial Harbors Authority Task Force member, the Hawaii Government Employees Association does not support the current bill (S.B. No. 1482) as written and submits the following perspectives and concerns regarding the creation of the Authority and the welfare and employment of the roughly 250 employees we represent.

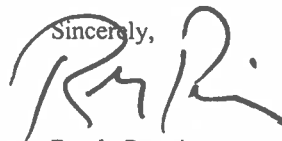
Among our misgivings is that a completely autonomous Harbors Authority and board members with unlimited powers could negatively affect the job security of our members. Exemption from the procurement process, financial solvency and myriad other circumstances could result in a once profitable operation experiencing financial shortfalls that could translate to worker layoffs or job losses. Furthermore, we fail to see this change as a reduction in bureaucracy. The creation of a new level of government or a quasi-government agency, instead of the improvements to the existing structure, seems contradictory.

Finally, the Union believes that governance by a politically insulated authority is not likely to benefit our members. Private entities, even partially, managing State employees and land is one step closer to complete privatization. This process could lead to a loss of civil service protection and Union recognition for workers.

Should this recommendation meet favorable review at the legislature the following points are non-negotiable from HGEA's standpoint:

1. That the Port Authority be administratively attached to the DOT and that civil service employees remain in their existing bargaining units with no changes in rights or benefits.
2. That a perpetuity clause be included which guarantees civil service rights and benefits for any employees transferred to the Port Authority from DOT Harbors.
3. Complete adherence to collective bargaining rights as outlined in Chapter 89, Hawaii Revised Statutes.
4. Any new positions created as a result of the transfer, to the fullest extent possible, be civil service positions as opposed to exempt from civil service positions.
5. That the existing hiring process for civil service positions, as prescribed by the Department of Human Resource Development, be used for vacancies within the Port Authority.
6. Labor Union membership, with voting rights, on the Harbor Authority.

Thank you for the opportunity to comment on this project

Sincerely,

Randy Perreira
Executive Director



DATE: NOVEMBER 5, 2019
TO: DEREK J. CHOW, DEPUTY DIRECTOR (DOT-HARBORS)
FROM: KEITH A. REGAN, CHIEF ADMINISTRATIVE OFFICER (HTA) 
SUBJECT: HAWAII COMMERCIAL HARBORS AUTHORITY TASK FORCE POSITION

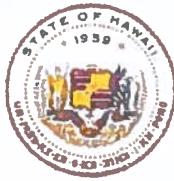
On behalf of the Hawaii'i Tourism Authority (HTA), we appreciate the opportunity to participate in the Hawaii'i Commercial Harbors Authority Task Force. Over the past many months, we have been provided with a significant amount of information, resources, and experiences that have been helpful in broadening our understanding of the many complexities involved in operating our current commercial harbors throughout the state. We appreciate the dedication and commitment of the Department of Transportation (DOT), the DOT – Harbor Division, and the Hawaii'i Harbors Users Group (HHUG) in leading us through this process.

Based on our research, we have the following thoughts to share with the task force regarding the concept of developing a commercial harbors authority here in the State of Hawaii'i:

- Improving the efficiency and effectiveness of operations at our commercial ports throughout the State of Hawaii'i is paramount;
- Funding to support operations and infrastructure should be provided at a level that will allow the DOT-Harbors Division to serve the needs of the public without interruption;
- Other options, beyond the creation of a commercial harbor authority, may exist for DOT to consider that will address procurement and budgetary issues;
- Public and private sector union concerns must be considered and addressed before advancing legislation;
- More focus should be placed on succession and continuity planning to ensure uninterrupted operations of the DOT – Harbors Division;
- DOT – Harbors Division should request resources to bolster and grow their environmentally-focused programs;
- DOT should explore economic development opportunities on existing property that may allow for additional revenue generation; and,
- DOT should consider increasing engagement and collaboration with government, community, and industry stakeholders will further improve the understanding of the role played by Hawaii'i's commercial ports and may help improve relationships.

We appreciate the opportunity to provide this input as part of the task force. At this time, the Hawaii'i Tourism Authority does not believe it has enough information to make a definitive decision on whether it supports or does not support the development of a commercial harbors authority. We look forward to continued discussions on this matter. Please do not hesitate to contact our office should you have any questions or require further clarification.

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

November 5, 2019

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

TO: Derek J. Chow
Deputy Director for Harbors
Department of Transportation

FROM: Robert K. Masuda 
First Deputy Director
Department of Land and Natural Resources

SUBJECT: DLNR Comments Regarding House Resolution 61,
Adopted in the Regular Legislative Session Of 2019

In the Regular Legislative Session of 2019, the Hawai'i State House of Representatives adopted House Resolution (HR) 61, REQUESTING THE HARBORS DIVISION OF THE DEPARTMENT OF TRANSPORTATION TO CONVENE A TASK FORCE TO STUDY THE FEASIBILITY OF ESTABLISHING A HAWAII COMMERCIAL HARBORS AUTHORITY.

The Hawai'i Commercial Harbors Authority (HCHA) contemplated in HR61 would assume jurisdiction for all planning, development, and operation of all Hawai'i commercial harbors. HR61 also requests the Department of Transportation, Harbors Division (DOT-Harbors) Deputy Director to form a Hawai'i Commercial Harbors Authority Task Force (HCHATF) and names DLNR as one of the several entities that would have representation on the HCHATF. Therefore, the purpose of this letter is to provide DLNR's position, concerns, and recommendations regarding HCHA.

DLNR has no objections to the creation of HCHA as proposed and has identified two areas under its jurisdiction relevant to HCHA: (1) aquatic non-indigenous organism control through regulation and monitoring of ballast water discharge and biofouling; and (2) management and operation of small boat harbors and small boat facilities.

Aquatic Non-Indigenous Organism Control

In 2000, DLNR was designated as the lead agency for prevention and eradication of aquatic non-indigenous organism introductions via regulation of ballast water discharge and biofouling. DLNR's Division of Aquatic Resources (DAR) implements and enforces regulations related to ballast water discharge and biofouling, focusing on the State's commercial harbors because vessels coming to the State from neighbor islands, other states, and other countries have a heightened potential to introduce undesired aquatic non-indigenous organisms.

DAR recommends including aquatic biosecurity considerations, specifically processes to prevent introduction and/or transfer of aquatic non-indigenous organisms into and around the State from ballast water and biofouling vectors, in all matters regarding the following:

- HCHA leadership decision-making
- Overall planning
- Proposed legislation, rules, policies, and standards
- Permitting applications and processes
- Industry best management practices
- Capital improvement projects, such as harbor infrastructure construction and dredging

HCHA should conduct and support surveys regarding ballast water discharge and biofouling issues in its harbors to monitor and identify aquatic biosecurity risks, and to collect data essential to informing aquatic biosecurity policymaking. HCHA could also use data collected from surveys to implement preventative aquatic biosecurity measures, such as vessel operator outreach and education on best management practices to minimize aquatic biosecurity risks.

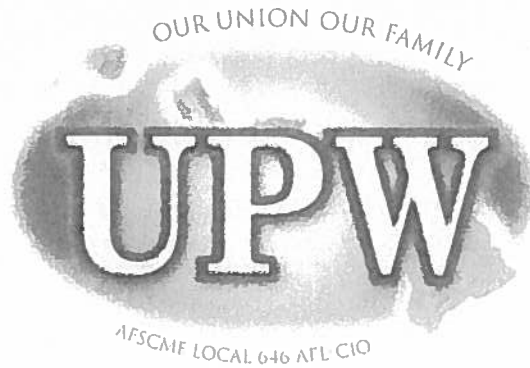
DAR further recommends researching and giving adequate consideration to the Vessel Incidental Discharge Act of 2018 (VIDA) to determine how VIDA's provisions may affect commercial harbor operations and processes. VIDA provides that states will not be able to enforce ballast water discharge standards, as this authority is transferred to the United States Coast Guard, and VIDA is therefore likely to inhibit the State's ability to manage interisland introductions of aquatic non-indigenous organisms, especially for Honolulu Harbor and Pearl Harbor, which have the greatest potential to act as hubs for aquatic non-indigenous organisms because of the high volume of vessel traffic.

DLNR Small Boat Harbors and Small Boat Facilities

Until 1991, DOT-Harbors was responsible for operating all state-owned harbors. In 1991, the Legislature transferred jurisdiction for operation and management of small boat harbors and facilities from DOT-Harbors to DLNR, which resulted in the creation of the DLNR Division of Boating and Ocean Recreation (DOBOR). DOBOR harbors and facilities provide moorings and services to recreational boaters, ocean recreation commercial operators, and certain cruise ships. DOBOR's mandate also includes ocean recreation management, which encompasses regulation of ocean activity up to three nautical miles from state shorelines.

As proposed, HCHA jurisdiction would not include any facilities or functions currently under DOBOR jurisdiction, and DLNR would not object to this. While DLNR believes DOBOR could benefit from the increased efficiency, financial flexibility, and responsiveness by being in a harbor authority, we recognize that the differences between commercial harbors and small boat harbors warrant separating the two harbor types and understand the reasoning for excluding DOBOR harbors, facilities, and functions from HCHA.

DOT HARBORS DEPUTY DIRECTOR
2 DEC 2019 8:45



November 20, 2019

Mr. Derek Chow, Deputy Director
DOT Harbors/Chair, Hawaii Commercial Harbor Task Force
Department of Transportation
State of Hawaii
79 S. Nimitz Hwy (Pier 11)
Honolulu, HI 96813

Dear Deputy Director Chow:

The United Public Workers' Union (UPW) ASFCME Local 646, AFL-CIO hereby submits its position paper with comments in response to H.R 61 (2019) calling for a review and report by a task force by the Hawaii Department of Transportation Harbor division regarding the feasibility of establishing a Hawaii Commercial Harbor Authority.

We convey our appreciation for your effort as Chair of the HCHTF in bringing the various stakeholders together to discuss this complex issue. We also appreciate the opportunity to have participated in the West Coast tour of three harbors and one tour of the Hawaii Matson facilities at Sand Island.

The UPW believes that improvement in government services to the public is a goal that is worthy to explore when there is consensus. We also believe from a worker perspective, that these improvements must be balanced between efficiency and the needs, rights and impact on workers affected by these improvements. The meetings by the HCHTF thus far, have not resulted in consensus. H.R.61 requests the task force to examine eight (8) significant areas from maximizing contributions of a Hawaii's commercial harbor system to the State's economy, to job creation within the State. We do not believe that the limited meetings accomplished what H.R. 61 requested since the task force was not properly supported to create quantifiable evidence and data based on professional and disinterested surveyors. The task force only received limited verbal information and opinions from a few members of the task force and tour information from presentations by representatives of three West Coast harbors of their operations.

The UPW submitted its concerns on this proposed transition of the harbor operations at the September 12, 2019 meeting of the HCHTF where the UPW stated that the compliance with the Hawaii State Constitution, Article XIII regarding the right to collective bargaining in HRS 89 and Article XVI regarding HRS 76 of the Civil Service System is primary and absolute in our view. These provisions must be protected and maintained; no employee at the DOT Harbors should be compelled to surrender his or her government civil service status, or any rights or benefits, in any proposed transition to a commercial harbor operation.

One of the guiding principles in collective bargaining is the need to maintain good working and labor relations. We do not understand why then, that the proposed Bill SB1482 (deferred) excludes a Labor representative commission position. How can there be direct communication and understanding about the concerns of Labor in harbor operations? Labor is a major stakeholder in harbor and maritime operations and must be treated as a partner with the rights, privileges and responsibilities as other commissioners.

A serious concern for the UPW and Labor in general is the exclusion in Bill SB1482 of legislative or administrative oversight in the proposed Hawaii Commercial Harbor operations. The harbors and their associated infrastructure are public assets. As such, government has an obligation to ensure that these public assets always serve the public interest and are maintained for the benefit of the public.

For these reasons and more, the UPW does not support the commercialization of the Hawaii harbors operations nor does it support the creation of a privatized harbor commission.

Respectfully,

A handwritten signature in black ink, appearing to read 'Dayton M. Nakanelua', with a long horizontal flourish extending to the right.

Dayton M. Nakanelua, State Director
United Public Workers

DAVID Y. IGE
GOVERNOR



RYKER WADA
DIRECTOR

ANDREW T. GARRETT
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

November 26, 2019

Mr. Derek Chow
Deputy Director, Harbors Division
State Department of Transportation
79 South Nimitz Hwy, Pier 11
Honolulu, HI 96813

**RE: Comments from Department of Human Resources Development (DHRD) on
the Hawaii Commercial Harbors Authority**

Dear Mr. Chow:

Thank you for the opportunity to serve as a member of the Hawaii Commercial Harbors Authority (Authority) Task Force and for allowing DHRD to provide these comments regarding the possible creation of such an Authority. While DHRD takes no formal position on the matter at this time, we point out the following:

- DHRD is directly involved in the collective bargaining process through the Office of the Chief Negotiator as outlined by Chapter 89, Hawaii Revised Statutes. Our records indicate that there are currently 252 positions within the Department of Transportation (DOT)–Harbors Division. The civil service employees are represented by the Hawaii Government Employees Association and United Public Workers.
- As the Hawaii State Legislature debates the merits of establishing the Authority, it will be important to determine the civil service status of current and future DOT–Harbors employees. In addition, DOT–Harbors will need guidance on whether any newly-created positions (civil service and exempt) shall be filled by policies prescribed by our department.

Again, thank you for the opportunity to provide these comments. If you have any questions, please don't hesitate me at (808) 587-1110 or Andrew.T.Garrett@hawaii.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew T. Garrett", with a stylized flourish at the end.

Andrew T. Garrett
Deputy Director

HAWAII HARBORS USERS GROUP

December 16, 2019

Mr. Derek Chow
Deputy Director
Harbors Division
Department of Transportation
79 S. Nimitz Highway
Honolulu, Hawaii 96813

Dear Mr. Chow

**Subject: Hawaii Commercial Harbors Authority Task Force - Hawaii Harbor Users Group
Position Statement - Comments.**

While the Hawaii Harbor Users Group (HHUG) does not have unanimity in its view on the establishment of a Hawaii Commercial Harbors Authority, it respectfully provides comments.

The Hawaii Harbor Users Group (HHUG) is a non-profit maritime transportation industry group comprised of key commercial harbor users. Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent Hawaii's imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Our commercial harbors are also important to our tourism industry as they serve cruise ships that bring visitors to our islands. Given the critical role of our commercial harbors, it is imperative that the State provide infrastructure and services to support dependable and efficient cargo transportation and handling industries to service our residents, businesses, and visitors.

HHUG members agree that the current governance model is not conducive to maximizing efficiency for the current harbor system. The responsibility of development, management, and operation of the State's commercial harbor system are distributed among several state agencies. Delays to the capital program and deferral of maintenance and modernization resulting from complex State approval requirements and decision-making processes are limiting capacity to accommodate demand.

However, we differ in our opinions on whether establishing an independent authority is the appropriate vehicle that would allow for quicker decision-making and a streamlined process for budgeting, procurement, and land transactions. While some HHUG members support this idea, others believe that these issues can be successfully addressed individually within the constraints of the current system.

Thank you for considering HHUG's comments on establishing a Hawaii Commercial Harbors Authority.
Mahalo & Aloha

Aloha Cargo Transport
American Marine
Clean Island Council
HC&D
Hawaiian Cement
Hawaii Pilots
Hawaii Pacific University
Kirby Offshore Marine, LLC

Hawaii Longshore Div., ILWU
Local 142
Kapolei Property Dev.
Matson Navigation Co.
McCabe Hamilton and Renny
CLIA - Alaska
Norwegian Cruise Line
Ocean Network Express Pte.
Ltd

Pacific Shipyards International
Pasha Hawaii
P&R Water Taxi
Sause Brothers, Inc.
Sea Engineering, Inc.
PAR Hawaii, Inc.
The Gas Company
Young Brothers / Foss



Gary J. North
Executive Director