

A BILL FOR AN ACT

RELATING TO THE HAWAII TOURISM AUTHORITY.

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

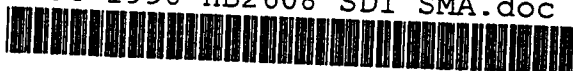
PART I

SECTION 1. Chapter 201B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§201B- Authority, private attorneys. (a) The board may appoint or retain by contract one or more attorneys who are independent of the attorney general to provide legal services for the board solely in cases of contract negotiations in which the attorney general lacks sufficient expertise; provided that the independent attorney shall consult and work in conjunction with the designated deputy attorney general assigned to the Hawaii tourism authority.

(b) The board may fix the compensation of the attorneys appointed or retained pursuant to this section. Attorneys appointed or retained by contract shall be exempt from chapters 76, 78, and 88."

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



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

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

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

12 (2) By any court or judicial or legislative office of the
13 State;

14 (3) By the legislative reference bureau;

15 (4) By any compilation commission that may be constituted
16 from time to time;

17 (5) By the real estate commission for any action involving
18 the real estate recovery fund;

19 (6) By the contractors license board for any action
20 involving the contractors recovery fund;

21 (7) By the trustees for any action involving the travel
22 agency recovery fund;

- 1 (8) By the office of Hawaiian affairs;
- 2 (9) By the department of commerce and consumer affairs for
- 3 the enforcement of violations of chapters 480 and 485;
- 4 (10) As grand jury counsel;
- 5 (11) By the Hawaiian home lands trust individual claims
- 6 review panel;
- 7 (12) By the Hawaii health systems corporation or any of its
- 8 facilities;
- 9 (13) By the auditor;
- 10 (14) By the office of ombudsman;
- 11 (15) By the insurance division;
- 12 (16) By the University of Hawaii;
- 13 (17) By the Kahoolawe island reserve commission;
- 14 (18) By the division of consumer advocacy; [~~ex~~]
- 15 (19) By a department, in the event the attorney general,
- 16 for reasons deemed by the attorney general good and
- 17 sufficient, declines, to employ or retain an attorney
- 18 for a department; provided that the governor thereupon
- 19 waives the provision of this section[~~-~~]; or
- 20 (20) By the Hawaii tourism authority, as provided in
- 21 section 201B- ."

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

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

12 SECTION 3. Section 40-1, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) With respect to the executive branch, except the
15 University of Hawaii, the Hawaii tourism authority, and the
16 department of education, the comptroller shall have complete
17 supervision of all accounts. The comptroller shall preaudit all
18 proposed payments of \$10,000 or more to determine the propriety
19 of expenditures and compliance with executive orders and rules
20 that may be in effect. When necessary, the comptroller shall
21 withhold approval of any payment. Whenever approval is
22 withheld, the department or agency concerned shall be promptly



1 notified. With respect to the University of Hawaii, the Hawaii
2 tourism authority, and the department of education, the
3 comptroller shall issue warrants for the release of funds for
4 the operating costs of the university, the Hawaii tourism
5 authority, or the department of education, as applicable, in
6 amounts and at times mutually agreed upon by the governor or
7 director of finance and the university, the Hawaii tourism
8 authority, or department of education, as applicable; provided:

9 (1) The amounts released shall not exceed the allotment
10 ceilings for the respective funding sources of the
11 university's or the department of education's
12 appropriations established by the governor for an
13 allotment period pursuant to section 37-34[~~7~~ and], or
14 in the case of the Hawaii tourism authority, revenues
15 received by the convention center enterprise special
16 fund and the tourism special fund pursuant to section
17 237D-6.5; and

18 (2) The comptroller may issue warrants as an advance from
19 the state treasury to the University of Hawaii, the
20 Hawaii tourism authority, and the department of
21 education to establish a checking account and provide
22 working capital in amounts and at times mutually

1 agreed upon by the governor or director of finance and
2 the University of Hawaii, the Hawaii tourism
3 authority, and the department of education.

4 The University of Hawaii, the Hawaii tourism authority, and the
5 department of education shall preaudit all proposed payments to
6 determine the propriety of expenditures and compliance with
7 applicable laws, executive orders, and rules as may be in
8 effect. The University of Hawaii, the Hawaii tourism authority,
9 and the department of education shall make disbursements for
10 operating expenses from the amounts released by the comptroller
11 and maintain records and documents necessary to support those
12 disbursements at times mutually agreed upon by the university
13 president, the executive director of the Hawaii tourism
14 authority, or the superintendent of education, as applicable,
15 and the comptroller; provided that when requested by the
16 university, the Hawaii tourism authority, or department of
17 education, the comptroller shall make all disbursements for the
18 university, the Hawaii tourism authority, or department of
19 education, as applicable, subject to available allotment. Funds
20 released pursuant to this section shall be deposited by the
21 university, the Hawaii tourism authority, or department of
22 education, as applicable, in accordance with the provisions

1 applicable to the director of finance by chapter 38. [Any]
2 Except for moneys deposited by the Hawaii tourism authority in
3 the convention center enterprise special fund pursuant to
4 section 201B-8, and in the tourism special fund pursuant to
5 section 201B-11, any interest earned on the deposit of funds
6 released pursuant to this section shall be deposited in the
7 state treasury at the end of each fiscal year."

8 SECTION 4. Section 40-4, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§40-4 **Publication of statements.** The comptroller shall
11 prepare and submit to the governor, immediately following the
12 close of each fiscal year, a statement of income and expenditure
13 by funds, showing the principal sources of revenue, the function
14 or purpose for which expenditures were made, together with a
15 consolidated statement showing similar information for all
16 funds; also a statement showing the balance in each fund at the
17 beginning of the fiscal year, plus the receipts, minus the
18 disbursements, and the balance on hand at the close of the
19 fiscal year after deducting outstanding warrants and vouchers.
20 The comptroller may request all agencies, the judiciary, the
21 University of Hawaii, the Hawaii tourism authority, the
22 department of education, and the legislature to provide such

SECTION 5. Section 40-6, Hawaii Revised Statutes, is amended to read as follows:

SECTION 6. Section 201B-2, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

1 "(f) The board shall appoint an executive director, exempt
2 from chapters 76, ~~[and]~~ 78, and 88 who shall oversee the
3 authority staff; provided that the compensation package,
4 including salary, shall not exceed ~~[fifteen]~~ nine per cent of
5 the ~~[3.5]~~ five per cent authorized for administrative expenses
6 under section 201B-11(c); and provided further that the
7 compensation package shall not include private sector moneys or
8 other contributions. The board shall set the executive
9 director's duties, responsibilities, holidays, vacations,
10 leaves, hours of work, and working conditions. It may grant
11 such other benefits as it deems necessary.

12 The board may appoint a sports coordinator, exempt from
13 chapters 76, 78, and 88, who shall provide management services
14 for all sporting events supported through the authority."

15 SECTION 7. Section 201B-11, Hawaii Revised Statutes, is
16 amended as follows:

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

18 (a) There is established in the state treasury the tourism
19 special fund, into which shall be deposited:

20 (1) A portion of the revenues from any transient
21 accommodations tax, as provided by section 237D-6.5;
22 ~~[and]~~

(2) Appropriations by the legislature to the tourism special fund; ~~[and]~~

(3) Gifts, grants, and other funds accepted by the authority~~[-]~~; and

(4) All interest and revenues or receipts derived by the authority from any project or project agreements."

2. By amending subsection (c) to read:

(c) Moneys in the tourism special fund shall be used by the authority for the purposes of this chapter~~[-]~~; provided that:

(1) Not more than ~~[3.5]~~ five per cent of this amount shall be used for administrative expenses, including \$15,000 for a protocol fund to be expended at the discretion of the executive director; and

(2) At least \$1,000,000 shall be made available to support efforts to manage, improve, and protect Hawaii's natural environment and areas frequented by visitors."

PART II

SECTION 8. The Hawaii tourism authority was established in 1998 to implement the recommendations of the economic revitalization task force relating to tourism and economic development to coordinate the development, marketing, and

1 research of the tourism industry in a manner consistent with the
2 needs of the State.

3 The Hawaii tourism authority's initial budget was required
4 to fund eighteen months of the Hawaii visitors and convention
5 bureau's marketing contract (July 1, 1998, to December 31, 1998,
6 and January 1, 1999, to December 31, 1999) with funding for
7 twelve months. This situation caused the authority to use
8 future budgets to make up for the appropriation shortfall, which
9 in the authority's initial budget year amounted to \$27,000,000.
10 This condition continues today, where the fiscal year budgets of
11 the Hawaii tourism authority are inadequate to cover the
12 calendar year contracts for marketing the State of Hawaii.

13 The purpose of this part is to appropriate funds from the
14 tourism special fund to allow the Hawaii tourism authority to
15 begin correcting this fiscal anomaly.

16 SECTION 9. There is appropriated out of the tourism
17 special fund the sum of \$8,000,000 or so much thereof as may be
18 necessary for fiscal year 2004-2005 to improve the operational
19 and financial efficiency of the Hawaii tourism authority;
20 provided that the sum appropriated shall be in addition to the
21 sums appropriated out of the tourism special fund in the
22 supplemental appropriations Act or any other Act.

1 The sum appropriated shall be expended by the Hawaii
2 tourism authority for the purposes of this part.

3 SECTION 10. The Hawaii tourism authority may amend
4 existing contracts to conform to the purposes of this part.

5 SECTION 11. The Hawaii tourism authority shall report to
6 the legislature no later than January 15, 2005, on the details
7 of expenditures of moneys appropriated under this part.

8 SECTION 12. This part shall not be construed to impair any
9 contract existing as of the effective date of this Act.

10 PART III

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

13 SECTION 14. This Act shall take effect on upon its
14 approval; provided that:

15 (1) The amendments made to sections 40-1, 40-4, and 40-6,
16 Hawaii Revised Statutes, by part I of this Act shall
17 not be repealed when those sections are reenacted on
18 June 30, 2005, by section 24 of Act 115, Session Laws
19 of Hawaii 1998;

20 (2) Part I shall be repealed on June 30, 2007, and
21 sections 28-8.3, 40-1, 40-4, and 40-6, 201B-2, and

2004-1998 HB2608 SD1 SMA.doc

H.B. NO. 2608
HD 1
SD 1

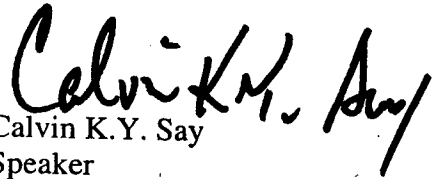
APPROVED this day of ,2004 . .

GOVERNOR OF THE STATE OF HAWAII

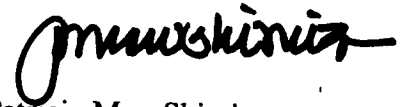
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 16, 2004
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the House of Representatives of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004.



Calvin K.Y. Say
Speaker
House of Representatives



Patricia Mau-Shimizu
Chief Clerk
House of Representatives

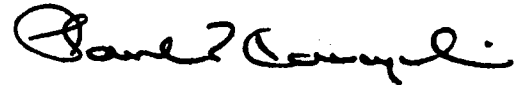
THE SENATE OF THE STATE OF HAWAII

Date: April 13, 2004
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Third Reading in the Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004.



Robert Bunda
President of the Senate



Paul Kawaguchi
Clerk of the Senate