

H.B. NO. 1334

A BILL FOR AN ACT

RELATING TO PROFESSIONAL AND VOCATIONAL LICENSING FEES.

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

1 SECTION 1. Section 92-28, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§92-28 State service fees; increase or decrease of.** Any
4 law to the contrary notwithstanding, the fees or other nontax
5 revenues assessed or charged by any board, commission, or other
6 governmental agency may be increased or decreased by the body in
7 an amount not to exceed fifty per cent of the statutorily
8 assessed fee or nontax revenue, to maintain a reasonable
9 relation between the revenues derived from such fee or nontax
10 revenue and the cost or value of services rendered,
11 comparability among fees imposed by the State, or any other
12 purpose which it may deem necessary and reasonable; provided
13 that:

14 (1) The authority to increase or decrease fees or nontax
15 revenues shall be subject to the approval of the
16 governor and extend only to the following: chapters
17 36, 92, 94, 142, 144, 145, 147, 150, 171, 188, 189,
18 231, 269, 271, 321, 338, 373, 412, 414, 414D, 415A,
19 417E, 419, 421, 421C, 421H, 421I, 425, 425E, 428, 431,

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1 436E, 437, 437B, 438, 439, 440, 441, 442, 443B, 444,
2 447, 448, 448E, 448F, 448H, 451A, 451J, 452, 453,
3 453D, 454, 455, 456, 457, 457A, 457B, 457G, 458, 459,
4 460, 460J, 461, 461J, 462A, 463, 463E, 464, 465, 466,
5 466K, 467, 467E, 468E, 468L, 468M, 469, 471, 482,
6 482E, 484, 485A, 501, 502, 505, 514A, 514B, 514E, 572,
7 574, and 846 (part II);

8 (2) The authority to increase or decrease fees or nontax
9 revenues under the chapters listed in paragraph (1)
10 that are established by the department of commerce and
11 consumer affairs shall apply to fees or nontax
12 revenues established by statute or rule;

13 (3) The authority to increase or decrease fees or nontax
14 revenues established by the University of Hawaii under
15 chapter 304A shall be subject to the approval of the
16 board of regents; provided that the board's approval
17 of any increase or decrease in tuition for regular
18 credit courses shall be preceded by an open public
19 meeting held during or prior to the semester preceding
20 the semester to which the tuition applies;

21 (4) This section shall not apply to judicial fees as may
22 be set by any chapter cited in this section;

23 (5) The authority to increase or decrease fees or nontax
24 revenues pursuant to this section shall be exempt from

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1 the public notice and public hearing requirements of
2 chapter 91; and
3 (6) Fees for copies of proposed and final rules and public
4 notices of proposed rulemaking actions under chapter
5 91 shall not exceed 10 cents a page, as required by
6 section 91-2.5."

7 SECTION 2. New statutory material is underscored.

8 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

Calvin K. H. Day

BY REQUEST

JAN 22 2007

HB1334

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO PROFESSIONAL AND VOCATIONAL LICENSING FEES.

PURPOSE: To provide the Department of Commerce and Consumer Affairs' Professional and Vocational Licensing Division (PVLD) with the flexibility to offer licensing discounts to PVLD's licensing program areas in an expedited manner. Specifically the bill amends section 92-28, Hawaii Revised Statutes (HRS), by extending the authority to decrease and increase fees to 30 additional licensing laws that fall under the PVLD of the Department of Commerce and Consumer Affairs. The affected licensing laws are chapters 436E, 437, 437B, 441, 443B, 444, 448E, 448F, 448H, 451A, 451J, 453D, 454, 457A, 457B, 457G, 460J, 461J, 462A, 463E, 465, 466K, 467E, 468E, 468L, 468M, 484, 514A, 514B, and 514E, HRS.

MEANS: Amend section 92-28, HRS.

JUSTIFICATION: Since 1968, section 92-28(1), HRS, has contained many, but not all, of the licensing laws which fall under PVLD. PVLD has not relied upon this section because when fee changes were to be made, the changes were to be permanent in nature and it was more practical to implement these changes through the rule adoption process (chapter 91, HRS). However, the value of section 92-28(1), HRS, came to light recently when PVLD found itself fiscally able to offer a discount to its licensees, but such discount was one that needed to be offered immediately and could only be extended for a two-year period so as to not affect PVLD's fiscal solvency. Implementing this discount through the rule adoption process was not practical since this process alone takes no less than one year and as

long as two years to complete. Section 92-28(1), HRS, was a solution, but one that could not benefit all licensees.

Starting in fiscal year (FY) 2005-2006 through the end of FY 2006-2007, PVLD offered a 10 percent discount to those licensees who renewed on PVLD's online renewal system. Referred to as a "Customer Appreciation Credit" (CAC), the CAC was implemented utilizing the expeditious process of section 92-28(1), HRS, so that the discount could get out to licensees immediately.

There was a drawback however, to section 92-28(1), HRS. Because this section does not contain all of the licensing areas in PVLD, the CAC could not be extended to all licensees who renew online. Instead, only those listed in section 92-28(1), HRS, who renewed online could receive the CAC discount, while a fair share of other licensing areas which renew online received no discount on their renewal fee. Rule changes could not accommodate this latter group since the discount period would have lapsed before or soon after the rules went into effect. As such, PVLD implemented the CAC discount under less than an ideal situation. This bill will expand the professions and vocations included in section 92-28(1), HRS.

Currently, section 92-28(1), HRS, does not include: Chapter ("Ch.") 436E: Acupuncturists; Ch. 437: Motor Vehicle Industry Licensees; Ch. 437B: Motor Vehicle Repair Licensees; Ch. 441: Cemetery and Funeral Trusts; Ch. 443B: Collection Agencies; Ch. 444: Contractors; Ch. 448E: Electricians and Plumbers; Ch. 448F: Electrologists; Ch. 448H: Elevator Mechanics; Ch. 451A: Hearing Aid Dealers and Fitters; Ch. 451J: Marriage and Family Therapists; Ch. 453D: Mental Health Counselors; Ch. 454: Mortgage Brokers and

Solicitors; Ch. 457A: Nurse Aides;
Ch. 457B: Nursing Home Administrators;
Ch. 457G: Occupational Therapists;
Ch. 460J: Pest Control Operators; Ch. 461J:
Physical Therapists; Ch. 462A: Port Pilots;
Ch. 463E: Podiatrists; Ch. 465:
Psychologists; Ch. 466K: Real Estate
Appraisers; Ch. 467E: Social Workers;
Ch. 468E: Speech Pathologists and
Audiologists; Ch. 468L: Travel Agencies;
Ch. 468M: Activity Desks; Ch. 484: Uniform
Land Sales; Ch. 514A: Condominium Property
Regimes; Ch. 514B: Condominiums; and Ch.
514E: Time Shares. Of this group, 10 areas
do not have the option to renew online
(Motor Vehicle Repair, Cemetery and Funeral
Trusts, Collection Agencies, Nurse Aides,
Port Pilots, Real Estate Appraisers, Travel
Agencies, Uniform Land Sales, Condominium
Property Regimes, and Time Shares), but
otherwise all other licensing areas named
above do renew online. This is the group
that was excluded from the CAC online
renewal discount for the FY 2006-2007
period.

It is PVLD's desire to amend section
92-28(1), HRS, so that it can expeditiously
implement initiatives relating to temporary
discounts, such as the CAC, based on its
financial ability to do so. Further, PVLD
would like to apply these discounts to as
many licensees as possible. The amendments
proposed in this bill will enable PVLD to
accomplish these goals.

For FY 2008-2009, PVLD is projecting that it
will be in a financial situation to extend
the CAC for online renewals. Should this
bill pass at the conclusion of the 2007
legislative session, PVLD will for the first
time be able to offer the CAC discount to
all those who renew online.

Impact on the public: There should be a
positive impact on the public and licensees,
since PVLD is amending the law to include

all remaining licensing chapters. By including all of PVLD's professions and vocations, future fee discounts can be applied consistently and expeditiously.

Impact on the department and other agencies:

The impact on PVLD will be positive as PVLD will be able to more timely respond to changing economic conditions by offering discounts when and if PVLD is fiscally able to do so.

It is not anticipated that this bill will impact other governmental agencies.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	CCA-105.
OTHER AFFECTED AGENCIES:	None anticipated.
EFFECTIVE DATE:	Upon approval.