

# S.B. NO. 1010

JAN 24 2013

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## A BILL FOR AN ACT

RELATING TO LEGAL SERVICES.

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

1 SECTION 1. Section 28-10, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§28-10 Prohibition on private practice of law by the  
4 attorney general, first deputy, and other deputies. (a) The  
5 attorney general, the attorney general's first deputy, and other  
6 deputies shall devote their entire time and attention to the  
7 duties of their respective offices. They shall not engage in  
8 the private practice of law, ~~nor~~ or accept any fees or  
9 emoluments other than their official salaries for any legal  
10 services[-]; except that, a deputy, other than the attorney  
11 general's first deputy, may provide pro bono legal services in  
12 the sole discretion of the attorney general. In exercising the  
13 discretion to allow a deputy to provide pro bono legal services,  
14 the attorney general may consider, among other things: whether  
15 the pro bono representation might create the appearance of a  
16 conflict of interest within the department of the attorney  
17 general, cast the department of the attorney general in a poor  
18 light, create undue burdens within the department of the

1 attorney general, or otherwise interfere with or impede with the  
2 mission of the department of the attorney general. Pro bono  
3 legal services provided by a deputy shall not be construed to  
4 create any client relationship, duty, or legal obligation  
5 between the recipient of the pro bono legal services and the  
6 department of the attorney general. Pro bono legal services  
7 provided by a deputy shall not be construed to disqualify,  
8 preclude, prevent, impair, or restrict in any manner, either  
9 directly or indirectly, the department of the attorney general  
10 from providing legal services or from fulfilling its duties as  
11 described in section 26-7, chapter 28, or as otherwise provided  
12 or mandated by law or practice.

13 (b) Any deputy attorney general who in good faith provides  
14 pro bono legal services shall not be liable for any civil  
15 damages resulting from the deputy's acts or omissions. In no  
16 event shall the State be liable for any civil damages as may  
17 result from the deputy's provision of pro bono services.

18 (c) The provision of pro bono legal services by deputy  
19 attorneys general is declared to be for the public purpose and  
20 may be appropriately supported with the resources of the  
21 department of the attorney general, as determined by the  
22 attorney general.



**S.B. NO. 1010**

**Report Title:**

Legal Services

**Description:**

Permits a deputy attorney general, except for the Attorney General's first deputy, to provide pro bono legal service if, in the determination of the Attorney General, the pro bono legal service does not conflict with the duties of the deputy's office.

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

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO LEGAL SERVICES.

PURPOSE: The purpose of this bill is to allow deputy attorneys general working at the State Department of the Attorney General to provide pro bono legal services.

MEANS: Amend section 28-10, Hawaii Revised Statutes.

JUSTIFICATION: This bill would conform current law regarding private practice by deputy attorneys general to the requirement of the Hawaii Supreme Court in Rule 6.1, which states that providing pro bono service is the individual ethical commitment of each member of the Hawaii State Bar Association and encourages all members of the bar to aspire to perform at least fifty hours of pro bono services annually. Because pro bono legal services may sometimes involve matters with the State, which is represented by the State Attorney General and which may therefore involve a conflict of interest for the deputy, this measure is necessary to allow deputies to fulfill their ethical legal obligations to the bar when such work does not conflict with their duties with the Department of the Attorney General.

Impact on the public: The public in general will benefit from the increase in the pro bono services through increased pro bono involvement by government attorneys.

Impact on the department and other agencies:  
(1) The Department of the Attorney General will benefit from this bill because it will

bring the Department more in accord with the emphasis of the Judiciary regarding access to justice.

(2) Because the provision of pro bono legal services is declared by the Legislature to be for a public purpose and resources of the department may be used, there could be a minor impact on the department's resources.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.