

JAN 18 2019

A BILL FOR AN ACT

RELATING TO LEGAL REPRESENTATION.

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

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

3 "**§28-8.3 Employment of attorneys.** (a) No department of
4 the State other than the attorney general may employ or retain
5 any attorney, by contract or otherwise, for the purpose of
6 representing the State or the department in any litigation,
7 rendering legal counsel to the department, or drafting legal
8 documents for the department; provided that the foregoing
9 provision shall not apply to the employment or retention of
10 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
15 the 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



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1 justice's designee [~~or to a legislative office by the~~
2 ~~speaker of the house of representatives and the~~
3 ~~president of the senate jointly,~~] and the attorney
4 general declines to provide such representation on the
5 grounds of conflict of interest, the attorney general
6 shall retain an attorney for the court [~~or~~
7 ~~judicial~~ [~~or legislative~~] office, subject to approval
8 by the court [~~or~~ or ~~judicial~~ [~~or legislative~~] office;
9 (3) By the legislative reference bureau;
10 (4) By any compilation commission that may be constituted
11 from time to time;
12 (5) By the real estate commission for any action involving
13 the real estate recovery fund;
14 (6) By the contractors license board for any action
15 involving the contractors recovery fund;
16 (7) By the office of Hawaiian affairs;
17 (8) By the department of commerce and consumer affairs for
18 the enforcement of violations of chapters 480 and
19 485A;
20 (9) As grand jury counsel;



- 1 (10) By the Hawaii health systems corporation, or its
- 2 regional system boards, or any of their facilities;
- 3 (11) By the auditor;
- 4 (12) By the office of ombudsman;
- 5 (13) By the insurance division;
- 6 (14) By the University of Hawaii;
- 7 (15) By the Kahoolawe island reserve commission;
- 8 (16) By the division of consumer advocacy;
- 9 (17) By the office of elections;
- 10 (18) By the campaign spending commission;
- 11 (19) By the Hawaii tourism authority, as provided in
- 12 section 201B-2.5;
- 13 (20) By the division of financial institutions;
- 14 (21) By the office of information practices; or
- 15 (22) By a department, if the attorney general, for reasons
- 16 deemed by the attorney general to be good and
- 17 sufficient, declines to employ or retain an attorney
- 18 for a department; provided that the governor waives
- 19 the provision of this section.
- 20 (b) For purposes of this section, the term "department"
- 21 includes any department, board, commission, agency, bureau, or



1 officer of the State[-]; provided that the term "department"
2 shall not include a member or group of members of the
3 legislature.

4 (c) Every attorney employed by any department on a full-
5 time basis, except an attorney employed by the public utilities
6 commission, the labor and industrial relations appeals board,
7 the Hawaii labor relations board, the office of Hawaiian
8 affairs, the Hawaii health systems corporation or its regional
9 system boards, the department of commerce and consumer affairs
10 in prosecution of consumer complaints, insurance division, the
11 division of consumer advocacy, the University of Hawaii, the
12 Hawaii tourism authority as provided in section 201B-2.5, the
13 office of information practices, or as grand jury counsel, shall
14 be a deputy attorney general.

15 (d) All attorneys retained by contract, whether by the
16 attorney general or a department, shall be retained in
17 accordance with chapter 103D.

18 (e) The attorney general shall not represent:

19 (1) The legislature as a whole;

20 (2) A house of the legislature; or

21 (3) A member or group of members of the legislature.



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1 Nothing in this section shall be construed to limit or otherwise
2 interfere with the right of the legislature, a house of the
3 legislature, or a member or group of members of the legislature,
4 when acting in their official capacities, to retain an attorney
5 to represent its respective office. If a member or group of
6 members of the legislature is sued in their official capacity,
7 the house to which the member or members belongs shall provide,
8 at that house's cost, legal representation to the member or
9 members; provided that any member may refuse representation by
10 the house."

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

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

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INTRODUCED BY:

Kal Rhoak
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Report Title:

Attorney General; Legislature

Description:

Clarifies that the attorney general shall not represent the legislature and individual legislators acting in their official capacity. Requires the respective house to provide legal representation for any member who is sued in the member's official capacity unless the member declines such representation.

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

