

JAN 21 2022

A BILL FOR AN ACT

RELATING TO INDEPENDENT LEGAL COUNSEL.

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

1 SECTION 1. 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



- 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, judicial, or
7 legislative office, subject to approval by the court,
8 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;
- 15 (22) By the school facilities authority; [ø]
- 16 (23) By the department of Hawaiian home lands; provided
- 17 that:
- 18 (A) The department of Hawaiian home lands may use the
- 19 services of the attorney general as needed; and
- 20 (B) Legal fees owed to independent counsel shall be
- 21 paid by the State; or



1 [~~(23)~~] (24) By a department, if the attorney general, for
2 reasons deemed by the attorney general to be good and
3 sufficient, declines to employ or retain an attorney
4 for a department; provided that the governor waives
5 the provision of this section."

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

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

19 SECTION 2. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21



S.B. NO. 2607

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

2

INTRODUCED BY:





S.B. NO. 2607

Report Title:

Department of Hawaiian Home Lands; Legal Counsel

Description:

Allows the Department of Hawaiian home lands to retain independent legal counsel as needed. Authorizes the Department of Hawaiian home lands to use the services of the Attorney General as needed and when the interests of the State and the Department of Hawaiian Home Lands are aligned. Provides that funds owed to independent legal counsel shall be paid by the State.

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