

1 all necessary, useful, and related equipment, furnishings, and
2 appurtenances.

3 "Director" means the director of the agency.

4 "Hawaii brand" means the programs that collectively
5 differentiate the Hawaii experience from other destinations.

6 "Public agency" means any office, department, board,
7 commission, bureau, division, public corporation agency, or
8 instrumentality of the federal, state, or county government.

9 § -2 **Destination management agency; commission;**
10 **established.** (a) There is established the destination
11 management agency, which shall be a body corporate and a public
12 instrumentality of the State, for the purpose of implementing
13 this chapter. The agency shall be placed within the department
14 of business, economic development, and tourism for
15 administrative purposes only.
16 (b) The agency shall be headed by a commission that shall
17 consist of three members who are appointed by the governor in
18 the manner prescribed in section 26-34, except that the members
19 shall not be subject to the advice and consent of the senate.
20 The members shall be appointed for terms of four years; provided
21 that membership on the commission shall not exceed eight



1 consecutive years; provided further that each member shall hold
2 office until the member's successor is appointed and qualified.
3 The governor shall provide for staggered terms of the initially
4 appointed members.

5 (c) The members shall elect a chairperson from amongst
6 themselves. The chair shall be paid a salary set at eighty per
7 cent of the salary of the chairperson of the public utilities
8 commission, and each of the other members shall be paid a salary
9 set at eighty per cent of the salary of the other commissioners
10 of the public utilities commission.

11 (d) The commission shall appoint one person to serve as
12 the director of the agency, exempt from chapters 76 and 88, who
13 shall oversee the agency staff. The director shall be paid a
14 salary set at ninety per cent of the salary of the director of
15 business, economic development, and tourism.

16 § -3 **Authority; private attorneys.** (a) The commission
17 may appoint or retain by contract one or more attorneys who are
18 independent of the attorney general to provide legal services
19 for the commission solely in cases of contract negotiations in
20 which the attorney general lacks sufficient expertise; provided
21 that the independent attorneys shall consult and work in



1 conjunction with the designated deputy attorney general assigned
2 to the agency.

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

7 § -4 Powers, generally. (a) Except as otherwise
8 limited by this chapter, the agency may:

- 9 (1) Sue and be sued;
- 10 (2) Have a seal and alter the same at its pleasure;
- 11 (3) Through its director, make and execute contracts and
12 all other instruments necessary or convenient for the
13 exercise of its powers and functions under this
14 chapter; provided that the agency may enter into
15 contracts and agreements for a period of up to five
16 years, subject to the availability of funds; provided
17 further that the agency may enter into agreements for
18 the use of the convention center facility for a period
19 of up to ten years;
- 20 (4) Make and alter bylaws for its organization and
21 internal management;



- 1 (5) Unless otherwise provided in this chapter, adopt rules
2 in accordance with chapter 91 with respect to its
3 projects, operations, properties, and facilities;
- 4 (6) Through its director, represent the agency in
5 communications with the governor and the legislature;
- 6 (7) Through its director, provide for the appointment of
7 officers, agents, a sports coordinator, and employees,
8 subject to the approval of the commission, prescribing
9 their duties and qualifications, and fixing their
10 salaries, without regard to chapters 76 and 78, if
11 funds have been appropriated by the legislature and
12 allotted as provided by law;
- 13 (8) Through its director, purchase supplies, equipment, or
14 furniture;
- 15 (9) Through its director, allocate the space or spaces
16 that are to be occupied by the agency and appropriate
17 staff;
- 18 (10) Through its director, engage the services of
19 consultants on a contractual basis for rendering
20 professional and technical assistance and advice;



- 1 (11) Procure insurance against any loss in connection with
2 its property and other assets and operations in
3 amounts and from insurers as it deems desirable;
- 4 (12) Contract for or accept revenues, compensation,
5 proceeds, and gifts or grants in any form from any
6 public agency or any other source;
- 7 (13) Develop, coordinate, and implement state policies and
8 directions for tourism and related activities taking
9 into account the economic, social, and physical
10 impacts of tourism on the State, Hawaii's natural
11 environment, and areas frequented by visitors;
- 12 (14) Have a permanent, strong focus on Hawaii brand
13 management;
- 14 (15) Coordinate all agencies and advise the private sector
15 in the development of tourism-related activities and
16 resources;
- 17 (16) Work to eliminate or reduce barriers to travel to
18 provide a positive and competitive business
19 environment, including coordinating with the
20 department of transportation on issues affecting
21 airlines and air route development;



- 1 (17) Coordinate the development of new products with the
2 counties and other persons in the public sector and
3 private sector, including the development of sports,
4 culture, health and wellness, education, technology,
5 agriculture, and nature tourism;
- 6 (18) Establish a public information and educational program
7 to inform the public of tourism and tourism-related
8 problems;
- 9 (19) Encourage the development of tourism educational,
10 training, and career counseling programs;
- 11 (20) Establish a program to monitor, investigate, and
12 respond to complaints about problems resulting
13 directly or indirectly from the tourism industry and
14 taking appropriate action as necessary;
- 15 (21) Develop and implement emergency measures to respond to
16 any adverse effects on the tourism industry, pursuant
17 to section -12;
- 18 (22) Set and collect rents, fees, charges, or other
19 payments for the lease, use, occupancy, or disposition
20 of the convention center facility without regard to
21 chapter 91;



1 (23) Notwithstanding chapter 171, acquire, lease as lessee
2 or lessor, own, rent, hold, and dispose of the
3 convention center facility in the exercise of its
4 powers and the performance of its duties under this
5 chapter; and

6 (24) Acquire by purchase, lease, or otherwise, and develop,
7 construct, operate, own, manage, repair, reconstruct,
8 enlarge, or otherwise effectuate, either directly or
9 through developers, a convention center facility.

10 (b) The agency shall do any and all things necessary to
11 carry out its purposes, to exercise the powers and
12 responsibilities given in this chapter, and to perform other
13 functions required or authorized by law.

14 § -5 Meetings of the commission. (a) The meetings of
15 the commission shall be open to the public as provided in
16 section 92-3, except that when it is necessary for the
17 commission to receive:

18 (1) Information that is proprietary to a particular
19 enterprise or the disclosure of which might be harmful
20 to the business interests of the enterprise; or



1 (2) Information that is necessary to protect Hawaii's
2 competitive advantage as a visitor destination;
3 provided that information relating to marketing plans
4 and strategies may be disclosed after the execution of
5 the marketing plans and strategies,
6 the commission may enter into an executive meeting that is
7 closed to the public in accordance with the procedures provided
8 for holding an executive meeting under part I of chapter 92.

9 (b) The commission shall be subject to the procedural
10 requirements of section 92-4, and this authorization shall be in
11 addition to the exceptions listed in section 92-5, to enable the
12 commission to respect the proprietary requirements of
13 enterprises with which it has business dealings.

14 **§ -6 Exemption from administrative supervision of boards**
15 **and commissions.** Notwithstanding any other law to the contrary,
16 the agency shall be exempt from section 26-35 with the exception
17 of section 26-35(a) (2), (3), (7), and (8) and (b).

18 **§ -7 Visitor education marketing plan.** (a) The agency
19 shall be responsible for developing a visitor education
20 marketing plan, with an emphasis on the Asia-Pacific market.
21 The plan shall be a single, comprehensive document that shall be



1 updated every year that shall focus on educating visitors about
2 destination management and Hawaiian cultural values.

3 (b) The agency shall develop measures of effectiveness to
4 assess the overall benefits and effectiveness of the visitor
5 education marketing plan and include documentation of the
6 progress of the plan towards achieving the agency's strategic
7 goal.

8 § -8 **Hawaii brand management.** The agency shall develop
9 a plan for statewide Hawaii brand management efforts and
10 programs. The plan shall include:

11 (1) Efforts to enter into Hawaii brand management projects
12 that make effective use of cooperative programs; and

13 (2) The agency's guidance and direction for the
14 development and coordination of promotional programs
15 that build and promote the Hawaii brand, which are
16 implemented through contracts and agreements with
17 destination marketing organizations or other qualified
18 organizations, including:

19 (A) Target markets and the results being sought;

20 (B) Key performance indicators; and



1 (C) Private sector collaborative or cooperative
2 efforts that may be required.

3 § -9 **Tourism-related activities.** (a) The agency may
4 enter into contracts and agreements that include the following:

- 5 (1) Tourism promotion and development;
- 6 (2) Product development and diversification issues focused
7 on visitors;
- 8 (3) Promotion, development, and coordination of sports-
9 related activities and events;
- 10 (4) Promotion of Hawaii, through a coordinated statewide
11 effort, as a place to do business, including
12 technology business, and as a business destination;
- 13 (5) Reduction of barriers to travel;
- 14 (6) Management, use, operation, or maintenance of the
15 convention center facility, including the purchase or
16 sale of goods or services, logo items, concessions,
17 sponsorships, and license agreements, or any use of
18 the convention center facility as a commercial
19 enterprise;
- 20 (7) Tourism research and statistics to:
 - 21 (A) Measure and analyze tourism trends;



- 1 (B) Provide information and research to assist in the
- 2 development and implementation of state tourism
- 3 policy; and
- 4 (C) Provide tourism information on:
 - 5 (i) Visitor arrivals, visitor characteristics,
 - 6 and expenditures;
 - 7 (ii) The number of transient accommodation units
 - 8 available, occupancy rates, and room rates;
 - 9 (iii) Airline-related data, including seat
 - 10 capacity and number of flights;
 - 11 (iv) The economic, social, and physical impacts
 - 12 of tourism on the State; and
 - 13 (v) The effects of the visitor educational
 - 14 marketing programs of the agency on the
 - 15 measures of effectiveness developed pursuant
 - 16 to section -7; and
- 17 (8) Any and all other activities necessary to carry out
- 18 the intent of this chapter;
- 19 provided that the agency shall periodically submit a report of
- 20 the contracts and agreements entered into by the agency to the



1 governor, speaker of the house of representatives, and president
2 of the senate.

3 (b) The agency shall be responsible for:

4 (1) Creating a vision and developing a long-range
5 strategic plan for tourism in Hawaii;

6 (2) Promoting and developing the tourism industry in the
7 State;

8 (3) Arranging for the conduct of research through
9 contractual services with the University of Hawaii or
10 any agency or other qualified persons concerning
11 social, economic, and environmental aspects of tourism
12 development in the State;

13 (4) Providing technical or other assistance to agencies
14 and private industry upon request;

15 (5) Perpetuating the uniqueness of the native Hawaiian
16 culture and community, and their importance to the
17 quality of the visitor experience, by ensuring that:

18 (A) The Hawaiian culture is accurately portrayed by
19 Hawaii's visitor industry;

20 (B) Hawaiian language is supported and normalized as
21 both an official language of the State as well as



1 the foundation of the host culture that draws
2 visitors to Hawaii;

3 (C) Hawaiian cultural practitioners and cultural
4 sites that give value to Hawaii's heritage are
5 supported, nurtured, and engaged in sustaining
6 the visitor industry; and

7 (D) A native Hawaiian cultural education and training
8 program is provided for the visitor industry
9 workforce having direct contact with visitors;
10 and

11 (6) Reviewing annually the expenditure of public funds by
12 any visitor industry organization that contracts with
13 the agency to perform tourism promotion and
14 development and making recommendations necessary to
15 ensure the effective use of the funds for the
16 development of tourism.

17 (c) The agency may delegate to staff the responsibility
18 for soliciting, awarding, and executing contracts and for
19 monitoring and facilitating any and all functions developed in
20 accordance with this section.



1 (d) Where public disclosure of information gathered or
 2 developed by the agency may place a business at a competitive
 3 disadvantage or may impair or frustrate the agency's ability to
 4 either compete as a visitor destination or obtain or utilize
 5 information for a legitimate government function, the agency may
 6 withhold from public disclosure competitively sensitive
 7 information including:

- 8 (1) Completed survey forms and questionnaire forms;
- 9 (2) Coding sheets; and
- 10 (3) Database records of the information.

11 **§ -10 Applicability of Hawaii public procurement code;**
 12 **convention center contractor; construction contracts.** The
 13 construction contracts for the maintenance of the convention
 14 center facility by the private contractor that operates the
 15 convention center, by its direct or indirect receipt of, and its
 16 expenditure of, public funds from the department of business,
 17 economic development, and tourism or the agency, or both, shall
 18 be subject to part III of chapter 103D.

19 **§ -11 Convention center enterprise special fund.** (a)
 20 There is established the convention center enterprise special
 21 fund, into which shall be deposited:



- 1 (1) A portion of the revenues from the transient
2 accommodations tax, as provided by section 237D-6.5;
- 3 (2) All revenues or moneys derived from the operations of
4 the convention center to include all revenues from the
5 food and beverage service, all revenues from the
6 parking facilities or from any concession, and all
7 revenues from the sale of souvenirs, logo items, or
8 any other items offered for purchase at the convention
9 center; and
- 10 (3) Private contributions, interest, compensation, gross
11 or net revenues, proceeds, or other moneys derived
12 from any source or for any purpose arising from the
13 use of the convention center facility.
- 14 (b) Moneys in the convention center enterprise special
15 fund shall be used by the agency for the payment of expenses
16 arising from any and all use, operation, maintenance,
17 alteration, improvement, or any unforeseen or unplanned repairs
18 of the convention center, including without limitation the food
19 and beverage service and parking service provided at the
20 convention center facility, the sale of souvenirs, logo items,
21 or other items, for any future major repair, maintenance, and



1 improvement of the convention center facility as a commercial
2 enterprise or as a world class facility for conventions,
3 entertainment, or public events.

4 (c) Moneys in the convention center enterprise special
5 fund may be:

6 (1) Placed in interest-bearing accounts; provided that the
7 depository in which the money is deposited furnishes
8 security as provided in section 38-3; or

9 (2) Otherwise invested by the agency until a time as the
10 moneys may be needed; provided that the agency shall
11 limit its investments to those listed in section 36-
12 21.

13 All interest accruing from investment of the moneys shall be
14 credited to the convention center enterprise special fund.

15 § -12 **Tourism emergency.** (a) If the commission
16 determines that the occurrence of a world conflict, terrorist
17 threat, national or global economic crisis, natural disaster,
18 outbreak of disease, or other catastrophic event adversely
19 affects Hawaii's tourism industry by resulting in a substantial
20 interruption in the commerce of the State and adversely
21 affecting the welfare of its people, the commission shall submit



1 a request to the governor to declare that a tourism emergency
2 exists.

3 (b) Upon declaration by the governor that a tourism
4 emergency exists pursuant to subsection (a), the agency shall
5 develop and implement measures to respond to the tourism
6 emergency, including providing assistance to tourists during the
7 emergency; provided that any tourism emergency response measure
8 implemented pursuant to this subsection shall not include any
9 provision that would adversely affect the organized labor force
10 in tourism-related industries. With respect to a national or
11 global economic crisis only, in addition to the governor's
12 declaration of the existence of a tourism emergency, no action
13 in response to the tourism emergency declaration may be taken by
14 the agency without the governor's express approval.

15 § -13 **Tourism emergency special fund.** (a) There is
16 established outside the state treasury a tourism emergency
17 special fund to be administered by the commission, into which
18 shall be deposited the revenues prescribed by section 237D-
19 6.5(b) and all investment earnings credited to the assets of the
20 fund.



1 (b) Moneys in the special fund shall be used exclusively
2 to provide for the development and implementation of emergency
3 measures to respond to any tourism emergency pursuant to
4 section -12, including providing emergency assistance to
5 tourists during the tourism emergency.

6 (c) Use of the special fund, consistent with subsection
7 (b), shall be provided for in articles, bylaws, resolutions, or
8 other instruments executed by the commission as administrator
9 for the special fund.

10 § -14 **Tourism special fund.** (a) There is established
11 in the state treasury the tourism special fund, into which shall
12 be deposited:

13 (1) A portion of the revenues from any transient
14 accommodations tax, as provided by section 237D-6.5;

15 and

16 (2) Appropriations by the legislature to the tourism
17 special fund; and

18 (3) Gifts, grants, and other funds accepted by the agency.

19 (b) Moneys in the tourism special fund may be:



1 (1) Placed in interest-bearing accounts; provided that the
2 depository in which the money is deposited furnishes
3 security as provided in section 38-3; or

4 (2) Otherwise invested by the agency until a time as the
5 moneys may be needed; provided that the agency shall
6 limit its investments to those listed in section 36-
7 21.

8 All interest accruing from the investment of these moneys shall
9 be credited to the tourism special fund.

10 (c) Moneys in the tourism special fund:

11 (1) Shall be used by the agency for the purposes of this
12 chapter; provided that:

13 (A) No more than 3.5 per cent of this amount shall be
14 used for administrative expenses, including
15 \$15,000 for a protocol fund to be expended at the
16 discretion of the director of the agency; and

17 (B) At least \$1,000,000 shall be made available to
18 support efforts to manage, improve, and protect
19 Hawaii's natural environment and areas frequented
20 by visitors; and



1 (2) May be used to provide the counties with grants to
2 help support county-related destination management
3 efforts.

4 § -15 **County assistance special fund; established.** (a)

5 There is established in the state treasury the county assistance
6 special fund, into which shall be deposited:

7 (1) A portion of the revenues from any transient
8 accommodations tax, as provided by section 237D-6.5;
9 and

10 (2) Appropriations by the legislature to the county
11 assistance special fund.

12 (b) Moneys in the county assistance special fund may be
13 used to provide matching funds to the counties, upon application
14 to and approval by the agency, for projects that are contained
15 in their destination management action plans.

16 § -16 **Exemption of the agency from taxation.** All
17 revenues and receipts derived by the agency from any project or
18 a project agreement or other agreement pertaining thereto shall
19 be exempt from all state taxation. Any right, title, and
20 interest of the agency in any project shall also be exempt from
21 all state taxation. Except as otherwise provided by law, the



1 interest of a qualified person or other user of a project or a
2 project agreement or other agreements related to a project shall
3 not be exempt from taxation to a greater extent than it would be
4 if the costs of the project were directly financed by the
5 qualified person or user.

6 § -17 Assistance by state and county agencies; advisory
7 group. (a) Any state or county agency may render services upon
8 request of the agency.

9 (b) The agency may establish an advisory group that may
10 meet monthly or as the agency deems necessary, which may include
11 the director of business, economic development, and tourism;
12 director of transportation; chairperson of the board of land and
13 natural resources; and executive director of the state
14 foundation on culture and the arts to advise the agency on
15 matters relating to their respective departments or agency in
16 the preparation and execution of suggested:

17 (1) Measures to respond to tourism emergencies pursuant to
18 section -12;

19 (2) Programs for the management, improvement, and
20 protection of Hawaii's natural environment and other
21 areas frequented by visitors;



- 1 (3) Measures to address issues affecting airlines, air
2 routes, and barriers to travel to Hawaii; and
- 3 (4) Programs to perpetuate the cultures of Hawaii and
4 engage local communities to sustain and preserve the
5 native Hawaiian culture.

6 **§ -18 Declaration of public function, purpose, and**
7 **necessity.** The powers and functions granted to and exercised by
8 the agency under this chapter are declared to be public and
9 governmental functions, exercised for a public purpose, and
10 matters of public necessity.

11 **§ -19 Court proceedings; preferences; venue.** (a) Any
12 action or proceeding to which the agency, the State, or the
13 county may be a party, in which any question arises as to the
14 validity of this chapter, shall be preferred over all other
15 civil cases, except election cases, in the circuit court of the
16 circuit where the case or controversy arises, and shall be heard
17 and determined in preference to all other civil cases pending
18 therein except election cases, irrespective of position on the
19 calendar.

20 (b) Upon application of counsel to the agency, the same
21 preference shall be granted in any action or proceeding



1 questioning the validity of this chapter in which the agency may
2 be allowed to intervene.

3 (c) Any action or proceeding to which the agency, the
4 State, or the county may be a party, in which any question
5 arises as to the validity of this chapter or any portion of this
6 chapter, or any action of the agency may be filed in the circuit
7 court of the circuit where the case or controversy arises, which
8 court is hereby vested with original jurisdiction over the
9 action.

10 (d) Notwithstanding any provision of law to the contrary,
11 declaratory relief from the circuit court may be obtained for
12 any action.

13 (e) Any party aggrieved by the decision of the circuit
14 court may appeal in accordance with part I of chapter 641 and
15 the appeal shall be given priority.

16 § -20 **Annual report.** The agency shall submit a complete
17 and detailed report of its activities, expenditures, and
18 results, including the progress of the visitor educational
19 marketing plan developed pursuant to section -7, toward
20 achieving the agency's strategic plan goals, to the governor and
21 legislature at least twenty days prior to the convening of each



1 regular session. The annual report shall include the
2 descriptions and evaluations of programs funded, together with
3 any recommendations the agency may make."

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

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

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

14 (1) By the public utilities commission, the labor and
15 industrial relations appeals board, and the Hawaii
16 labor relations board;

17 (2) By any court or judicial or legislative office of the
18 State; provided that if the attorney general is
19 requested to provide representation to a court or
20 judicial office by the chief justice or the chief
21 justice's designee, or to a legislative office by the



1 speaker of the house of representatives and the
 2 president of the senate jointly, and the attorney
 3 general declines to provide such representation on the
 4 grounds of conflict of interest, the attorney general
 5 shall retain an attorney for the court, judicial, or
 6 legislative office, subject to approval by the court,
 7 judicial, or legislative office;

8 (3) By the legislative reference bureau;

9 (4) By any compilation commission that may be constituted
 10 from time to time;

11 (5) By the real estate commission for any action involving
 12 the real estate recovery fund;

13 (6) By the contractors license board for any action
 14 involving the contractors recovery fund;

15 (7) By the office of Hawaiian affairs;

16 (8) By the department of commerce and consumer affairs for
 17 the enforcement of violations of chapters 480 and
 18 485A;

19 (9) As grand jury counsel;

20 (10) By the Hawaii health systems corporation, or its
 21 regional system boards, or any of their facilities;



- 1 (11) By the auditor;
- 2 (12) By the office of ombudsman;
- 3 (13) By the insurance division;
- 4 (14) By the University of Hawaii;
- 5 (15) By the Kahoolawe island reserve commission;
- 6 (16) By the division of consumer advocacy;
- 7 (17) By the office of elections;
- 8 (18) By the campaign spending commission;
- 9 (19) By the [~~Hawaii tourism authority, as provided in~~
10 ~~section 201B-2.5;~~] destination management agency, as
11 provided in section -3;
- 12 (20) By the division of financial institutions;
- 13 (21) By the office of information practices;
- 14 (22) By the school facilities authority;
- 15 (23) By the Mauna Kea stewardship and oversight authority;
- 16 or
- 17 (24) By a department, if the attorney general, for reasons
18 deemed by the attorney general to be good and
19 sufficient, declines to employ or retain an attorney
20 for a department; provided that the governor waives
21 the provision of this section."



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

2 "(c) Every attorney employed by any department on a full-
3 time basis, except an attorney employed by the public utilities
4 commission, the labor and industrial relations appeals board,
5 the Hawaii labor relations board, the office of Hawaiian
6 affairs, the Hawaii health systems corporation or its regional
7 system boards, the department of commerce and consumer affairs
8 in prosecution of consumer complaints, insurance division, the
9 division of consumer advocacy, the University of Hawaii, the
10 [~~Hawaii tourism authority as provided in section 201B-2.5,~~
11 destination management agency as provided in section -3, the
12 Mauna Kea stewardship and oversight authority, the office of
13 information practices, or as grand jury counsel, shall be a
14 deputy attorney general."

15 SECTION 3. Section 36-27, Hawaii Revised Statutes, is

16 amended by amending subsection (a) to read as follows:

17 "(a) Except as provided in this section, and
18 notwithstanding any other law to the contrary, from time to
19 time, the director of finance, for the purpose of defraying the
20 prorated estimate of central service expenses of government in
21 relation to all special funds, except the:



- 1 (1) Special out-of-school time instructional program fund
- 2 under section 302A-1310;
- 3 (2) School cafeteria special funds of the department of
- 4 education;
- 5 (3) Special funds of the University of Hawaii;
- 6 (4) Convention center enterprise special fund under
- 7 section [~~201B-8;~~] -11;
- 8 (5) Special funds established by section 206E-6;
- 9 (6) Aloha Tower fund created by section 206J-17;
- 10 (7) Funds of the employees' retirement system created by
- 11 section 88-109;
- 12 (8) Hawaii hurricane relief fund established under chapter
- 13 431P;
- 14 (9) Hawaii health systems corporation special funds and
- 15 the subaccounts of its regional system boards;
- 16 (10) Universal service fund established under section 269-
- 17 42;
- 18 (11) Emergency and budget reserve fund under section 328L-
- 19 3;
- 20 (12) Public schools special fees and charges fund under
- 21 section 302A-1130;



- 1 (13) Sport fish special fund under section 187A-9.5;
- 2 (14) Neurotrauma special fund under section 321H-4;
- 3 (15) Glass advance disposal fee established by section
- 4 342G-82;
- 5 (16) Center for nursing special fund under section 304A-
- 6 2163;
- 7 (17) Passenger facility charge special fund established by
- 8 section 261-5.5;
- 9 (18) Solicitation of funds for charitable purposes special
- 10 fund established by section 467B-15;
- 11 (19) Land conservation fund established by section 173A-5;
- 12 (20) Court interpreting services revolving fund under
- 13 section 607-1.5;
- 14 (21) Trauma system special fund under section 321-22.5;
- 15 (22) Hawaii cancer research special fund;
- 16 (23) Community health centers special fund;
- 17 (24) Emergency medical services special fund;
- 18 (25) Rental motor vehicle customer facility charge special
- 19 fund established under section 261-5.6;
- 20 (26) Shared services technology special fund under section
- 21 27-43;



- 1 (27) Automated victim information and notification system
2 special fund established under section 353-136;
- 3 (28) Deposit beverage container deposit special fund under
4 section 342G-104;
- 5 (29) Hospital sustainability program special fund under
6 section 346G-4;
- 7 (30) Nursing facility sustainability program special fund
8 under section 346F-4;
- 9 (31) Hawaii 3R's school improvement fund under section
10 302A-1502.4;
- 11 (32) After-school plus program revolving fund under section
12 302A-1149.5;
- 13 (33) Civil monetary penalty special fund under section 321-
14 30.2; [~~and~~
- 15 ~~†~~ (34) ~~[†]~~ Stadium development special fund under section
16 109-3.5~~[†]~~;
- 17 (35) Tourism special fund under section -14; and
- 18 (36) County assistance special fund under section -15,
19 shall deduct five per cent of all receipts of all other special
20 funds, which deduction shall be transferred to the general fund
21 of the State and become general realizations of the State. All



1 officers of the State and other persons having power to allocate
2 or disburse any special funds shall cooperate with the director
3 in effecting these transfers. To determine the proper revenue
4 base upon which the central service assessment is to be
5 calculated, the director shall adopt rules pursuant to chapter
6 91 for the purpose of suspending or limiting the application of
7 the central service assessment of any fund. No later than
8 twenty days prior to the convening of each regular session of
9 the legislature, the director shall report all central service
10 assessments made during the preceding fiscal year."

11 SECTION 4. Section 36-30, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) Each special fund, except the:

- 14 (1) Special out-of-school time instructional program fund
15 under section 302A-1310;
- 16 (2) School cafeteria special funds of the department of
17 education;
- 18 (3) Special funds of the University of Hawaii;
- 19 (4) Special funds established by section 206E-6;
- 20 (5) Aloha Tower fund created by section 206J-17;



- 1 (6) Funds of the employees' retirement system created by
2 section 88-109;
- 3 (7) Hawaii hurricane relief fund established under chapter
4 431P;
- 5 (8) Convention center enterprise special fund established
6 under section [~~201B-8;~~] -11;
- 7 (9) Hawaii health systems corporation special funds and
8 the subaccounts of its regional system boards;
- 9 (10) Universal service fund established under section 269-
10 42;
- 11 (11) Emergency and budget reserve fund under section 328L-
12 3;
- 13 (12) Public schools special fees and charges fund under
14 section 302A-1130;
- 15 (13) Sport fish special fund under section 187A-9.5;
- 16 (14) Neurotrauma special fund under section 321H-4;
- 17 (15) Center for nursing special fund under section 304A-
18 2163;
- 19 (16) Passenger facility charge special fund established by
20 section 261-5.5;



- 1 (17) Court interpreting services revolving fund under
- 2 section 607-1.5;
- 3 (18) Trauma system special fund under section 321-22.5;
- 4 (19) Hawaii cancer research special fund;
- 5 (20) Community health centers special fund;
- 6 (21) Emergency medical services special fund;
- 7 (22) Rental motor vehicle customer facility charge special
- 8 fund established under section 261-5.6;
- 9 (23) Shared services technology special fund under section
- 10 27-43;
- 11 (24) Nursing facility sustainability program special fund
- 12 established pursuant to section 346F-4;
- 13 (25) Automated victim information and notification system
- 14 special fund established under section 353-136;
- 15 (26) Hospital sustainability program special fund under
- 16 section 346G-4;
- 17 (27) Civil monetary penalty special fund under section 321-
- 18 30.2; [~~and~~
- 19 ~~+] (28) [~~+~~ Stadium development special fund under section~~
- 20 ~~109-3.5[~~r~~];~~
- 21 (29) Tourism special fund under section -14; and



1 (30) County assistance special fund under section -15,
 2 shall be responsible for its pro rata share of the
 3 administrative expenses incurred by the department responsible
 4 for the operations supported by the special fund concerned."

5 SECTION 5. Section 84-18, Hawaii Revised Statutes, is
 6 amended by amending subsection (e) to read as follows:

7 "(e) Subject to the restrictions imposed in subsections
 8 (a) through (d), the following individuals shall not represent
 9 any person or business for a fee or other consideration
 10 regarding any legislative action or administrative action, as
 11 defined in section 97-1, for twelve months after termination
 12 from their respective positions:

- 13 (1) The governor;
- 14 (2) The lieutenant governor;
- 15 (3) The administrative director of the State;
- 16 (4) The attorney general;
- 17 (5) The comptroller;
- 18 (6) The chairperson of the board of agriculture;
- 19 (7) The director of finance;
- 20 (8) The director of business, economic development, and
 21 tourism;



- 1 (9) The director of commerce and consumer affairs;
- 2 (10) The adjutant general;
- 3 (11) The superintendent of education;
- 4 (12) The chairperson of the Hawaiian homes commission;
- 5 (13) The director of health;
- 6 (14) The director of human resources development;
- 7 (15) The director of human services;
- 8 (16) The director of labor and industrial relations;
- 9 (17) The chairperson of the board of land and natural
10 resources;
- 11 (18) The director of public safety;
- 12 (19) The director of taxation;
- 13 (20) The director of transportation;
- 14 (21) The president of the University of Hawaii;
- 15 (22) The executive administrator of the board of regents of
16 the University of Hawaii;
- 17 (23) The administrator of the office of Hawaiian affairs;
- 18 (24) The chief information officer;
- 19 (25) The executive director of the agribusiness development
20 corporation;



- 1 (26) The executive director of the campaign spending
2 commission;
- 3 (27) The executive director of the Hawaii community
4 development authority;
- 5 (28) The executive director of the Hawaii housing finance
6 and development corporation;
- 7 (29) The [~~president and chief executive officer of the~~
8 ~~Hawaii tourism authority;~~] director of the destination
9 management agency;
- 10 (30) The executive officer of the public utilities
11 commission;
- 12 (31) The state auditor;
- 13 (32) The director of the legislative reference bureau;
- 14 (33) The ombudsman;
- 15 (34) The permanent employees of the legislature, other than
16 persons employed in clerical, secretarial, or similar
17 positions;
- 18 (35) The administrative director of the courts;
- 19 (36) The executive director of the state ethics commission;
- 20 (37) The executive officer of the state land use
21 commission;



1 (38) The executive director of the natural energy
2 laboratory of Hawaii authority;

3 (39) The executive director of the Hawaii public housing
4 authority; and

5 (40) The first deputy to the chairperson of the commission
6 on water resource management;

7 provided that this subsection shall not apply to any person who
8 has held one of the positions listed above only on an interim or
9 acting basis and for a period of less than one hundred eighty-
10 one days."

11 SECTION 6. Section 88-9, Hawaii Revised Statutes, is
12 amended by amending subsection (d) to read as follows:

13 "(d) A retirant may be employed without reenrollment in
14 the system and suffer no loss or interruption of benefits
15 provided by the system or under chapter 87A if the retirant is
16 employed:

17 (1) As an elective officer pursuant to section 88-42.6(c)
18 or as a member of the legislature pursuant to section
19 88-73(d);

20 (2) As a juror or precinct official;



1 (3) As a part-time or temporary employee excluded from
 2 membership in the system pursuant to section 88-43, as
 3 a session employee excluded from membership in the
 4 system pursuant to section 88-54.2, as the [~~president~~
 5 ~~and chief executive officer of the Hawaii tourism~~
 6 ~~authority]~~ director of the destination management
 7 agency excluded from membership in the system pursuant
 8 to section 201B-2, or as any other employee expressly
 9 excluded by law from membership in the system;

10 provided that:

11 (A) The retirant was not employed by the State or a
 12 county during the six calendar months prior to
 13 the first day of reemployment; and

14 (B) No agreement was entered into between the State
 15 or a county and the retirant, prior to the
 16 retirement of the retirant, for the return to
 17 work by the retirant after retirement;

18 (4) In a position identified by the appropriate
 19 jurisdiction as a labor shortage or difficult-to-fill
 20 position; provided that:



- 1 (A) The retirant was not employed by the State or a
- 2 county during the twelve calendar months prior to
- 3 the first day of reemployment;
- 4 (B) No agreement was entered into between the State
- 5 or a county and the retirant, prior to the
- 6 retirement of the retirant, for the return to
- 7 work by the retirant after retirement; and
- 8 (C) Each employer shall contribute to the pension
- 9 accumulation fund the required percentage of the
- 10 rehired retirant's compensation to amortize the
- 11 system's unfunded actuarial accrued liability; or
- 12 (5). As a teacher or an administrator in a teacher shortage
- 13 area identified by the department of education or in a
- 14 charter school or as a mentor for new classroom
- 15 teachers; provided that:
- 16 (A) The retirant was not employed by the State or a
- 17 county during the twelve calendar months prior to
- 18 the first day of reemployment;
- 19 (B) No agreement was entered into between the State
- 20 or a county and the retirant prior to the



1 retirement of the retirant, for the return to
2 work by the retirant after retirement; and
3 (C) The department of education or charter school
4 shall contribute to the pension accumulation fund
5 the required percentage of the rehired retirant's
6 compensation to amortize the system's unfunded
7 actuarial accrued liability."

8 SECTION 7. Section 225P-3, Hawaii Revised Statutes, is
9 amended by amending subsection (c) to read as follows:

10 "(c) The commission shall include the following members:

- 11 (1) The chairs of the standing committees of the
12 legislature with subject matter jurisdiction
13 encompassing environmental protection and land use;
- 14 (2) The chairperson of the board of land and natural
15 resources or the chairperson's designee, who shall be
16 the co-chair of the commission;
- 17 (3) The director of the office of planning and sustainable
18 development or the director's designee, who shall be
19 the co-chair of the commission;
- 20 (4) The director of business, economic development, and
21 tourism or the director's designee;



- 1 (5) The chairperson of the [~~board of directors of the~~
2 ~~Hawaii tourism authority~~] destination management
3 commission or the chairperson's designee;
- 4 (6) The chairperson of the board of agriculture or the
5 chairperson's designee;
- 6 (7) The chief executive officer of the office of Hawaiian
7 affairs or the officer's designee;
- 8 (8) The chairperson of the Hawaiian homes commission or
9 the chairperson's designee;
- 10 (9) The director of transportation or the director's
11 designee;
- 12 (10) The director of health or the director's designee;
- 13 (11) The adjutant general or the adjutant general's
14 designee;
- 15 (12) The chairperson of the board of education or the
16 chairperson's designee;
- 17 (13) The directors of each of the county planning
18 departments, or the directors' designees; and
- 19 (14) The manager of the coastal zone management program."

20 SECTION 8. Section 237-24.75, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§237-24.75 Additional exemptions.** In addition to the
2 amounts exempt under section 237-24, this chapter shall not
3 apply to:

4 (1) Amounts received as a beverage container deposit
5 collected under chapter 342G, part VIII;

6 (2) Amounts received by the operator of the Hawaii
7 convention center for reimbursement of costs or
8 advances made pursuant to a contract with the [~~Hawaii~~
9 ~~tourism authority under section 201B-7;~~] destination
10 management agency under section -9; and

11 (3) Amounts received by a professional employer
12 organization that is registered with the department of
13 labor and industrial relations pursuant to chapter
14 373L, from a client company equal to amounts that are
15 disbursed by the professional employer organization
16 for employee wages, salaries, payroll taxes, insurance
17 premiums, and benefits, including retirement,
18 vacation, sick leave, health benefits, and similar
19 employment benefits with respect to covered employees
20 at a client company; provided that this exemption



1 shall not apply to amounts received by a professional
2 employer organization after:

3 (A) Notification from the department of labor and
4 industrial relations that the professional employer
5 organization has not fulfilled or maintained the
6 registration requirements under this chapter; or

7 (B) A determination by the department that the
8 professional employer organization has failed to pay
9 any tax withholding for covered employees or any
10 federal or state taxes for which the professional
11 employer organization is responsible.

12 As used in this paragraph, "professional employer
13 organization", "client company", and "covered
14 employee" shall have the meanings provided in section
15 373L-1."

16 SECTION 9. Section 237D-6.5, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) Except for the revenues collected pursuant to section
19 237D-2(e), revenues collected under this chapter shall be
20 distributed in the following priority, with the excess revenues
21 to be deposited into the general fund:



1 (1) \$1,500,000 shall be allocated to the Turtle Bay
 2 conservation easement special fund beginning July 1,
 3 2015, for the reimbursement to the state general fund
 4 of debt service on reimbursable general obligation
 5 bonds, including ongoing expenses related to the
 6 issuance of the bonds, the proceeds of which were used
 7 to acquire the conservation easement and other real
 8 property interests in Turtle Bay, Oahu, for the
 9 protection, preservation, and enhancement of natural
 10 resources important to the State, until the bonds are
 11 fully amortized;

12 (2) \$100,000,000 shall be allocated to the tourism special
 13 fund established under section -14; provided that:

14 (A) Of the \$100,000,000 allocated:

15 (i) \$50,000,000 shall be deposited into the
 16 county assistance special fund under
 17 section -15, to provide matching funds to
 18 the counties for project in their
 19 destination management action plans;



1 (ii) \$1,000,000 shall be allocated for the
2 operation of a Hawaiian center and the
3 museum of Hawaiian music and dance; and
4 (iii) 0.5 per cent of the \$100,000,000 shall be
5 transferred to a subaccount in the tourism
6 special fund to provide funding for a safety
7 and security budget, in accordance with the
8 Hawaii tourism strategic plan 2005-2015; and

9 (B) Of the revenues remaining in the tourism special
10 fund after revenues have been deposited as
11 provided in this paragraph and except for any sum
12 authorized by the legislature for expenditure
13 from revenues subject to this paragraph, funds
14 shall be deposited into the tourism emergency
15 special fund, established in section -13, in a
16 manner sufficient to maintain a fund balance of
17 \$5,000,000 in the tourism emergency special fund;

18 [~~+~~2] (3) \$11,000,000 shall be allocated to the convention
19 center enterprise special fund established under
20 section [~~201B-8,~~] -11; and



1 ~~[(3) An allocation shall be deposited into the tourism~~
2 ~~emergency special fund, established in section 201B-~~
3 ~~10, in a manner sufficient to maintain a fund balance~~
4 ~~of \$5,000,000 in the tourism emergency special fund,~~
5 ~~and]~~

6 (4) \$3,000,000 shall be allocated to the special land and
7 development fund established under section 171-19;
8 provided that the allocation shall be expended in
9 accordance with the ~~[Hawaii tourism authority]~~
10 destination management agency strategic plan for:

11 (A) The protection, preservation, maintenance, and
12 enhancement of natural resources, including
13 beaches, important to the visitor industry;

14 (B) Planning, construction, and repair of facilities;
15 and

16 (C) Operation and maintenance costs of public lands,
17 including beaches, connected with enhancing the
18 visitor experience.

19 All transient accommodations taxes shall be paid into the
20 state treasury each month within ten days after collection and



1 shall be kept by the state director of finance in special
2 accounts for distribution as provided in this subsection."

3 SECTION 10. Chapter 201B, Hawaii Revised Statutes, is
4 repealed.

5 SECTION 11. Act 109, Session Laws of Hawaii 2022, is
6 amended by amending section 15 to read as follows:

7 "SECTION 15. Act 1, Special Session Laws of Hawaii 2021,
8 is amended by amending section 25 to read as follows:

9 "SECTION 25. This Act shall take effect on July 1, 2021;
10 provided that:

- 11 (1) Parts VI and VII of this Act shall take effect on
12 January 1, 2022;
- 13 (2) The amendments made to section 87A-42, Hawaii Revised
14 Statutes, in section 8 of this Act shall take effect
15 upon the reenactment of that section on June 30, 2023,
16 pursuant to section 9 of Act 229, Session Laws of
17 Hawaii 2021; and
- 18 (3) The amendments made to section 237D-6.5(b), Hawaii
19 Revised Statutes, in section 13 of this Act, as
20 amended by section 9 of Act _____, Session Laws of
21 Hawaii 2023, shall not be repealed when that



1 subsection is reenacted on June 30, 2023, pursuant to
2 section 9 of Act 229, Session Laws of Hawaii 2021.""

3 SECTION 12. All rights, powers, functions, and duties of
4 the Hawaii tourism authority are transferred to the destination
5 management agency.

6 All employees who occupy civil service positions and whose
7 functions are transferred to the destination management agency
8 by this Act shall retain their civil service status, whether
9 permanent or temporary. Employees shall be transferred without
10 loss of salary, seniority (except as prescribed by applicable
11 collective bargaining agreements), retention points, prior
12 service credit, any vacation and sick leave credits previously
13 earned, and other rights, benefits, and privileges, in
14 accordance with state personnel laws and this Act; provided that
15 the employees possess the minimum qualifications and public
16 employment requirements for the class or position to which
17 transferred or appointed, as applicable; provided further that
18 subsequent changes in status may be made pursuant to applicable
19 civil service and compensation laws.

20 Any employee who, prior to this Act, is exempt from civil
21 service and is transferred as a consequence of this Act may



1 retain the employee's exempt status, but shall not be appointed
 2 to a civil service position as a consequence of this Act. An
 3 exempt employee who is transferred by this Act shall not suffer
 4 any loss of prior service credit, vacation or sick leave credits
 5 previously earned, or other employee benefits or privileges as a
 6 consequence of this Act; provided that the employees possess
 7 legal and public employment requirements for the position to
 8 which transferred or appointed, as applicable; provided further
 9 that subsequent changes in status may be made pursuant to
 10 applicable employment and compensation laws. The director of
 11 the destination management agency may prescribe the duties and
 12 qualifications of these employees and fix their salaries without
 13 regard to chapter 76, Hawaii Revised Statutes.

14 SECTION 13. All appropriations, records, equipment,
 15 machines, files, supplies, contracts, books, papers, documents,
 16 maps, and other personal property heretofore made, used,
 17 acquired, or held by the Hawaii tourism authority relating to
 18 the functions transferred to the destination management agency
 19 shall be transferred with the functions to which they relate.

20 SECTION 14. Sections 6E-18, 23-13, 23-76, 46-11, 171-173,
 21 and 206E-34, Hawaii Revised Statutes, are amended by



1 substituting the word "destination management agency" or
2 "agency" wherever the word "Hawaii tourism authority" or
3 "authority" appears, as the context requires.

4 SECTION 15. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 16. This Act shall take effect on June 30, 3000.

7



Report Title:

HTA; Repeal; Destination Management Agency; Tourism Special Fund; County Assistance Special Fund

Description:

Establishes the powers, duties, and responsibilities of the destination management agency, including its director and commission. Establishes the tourism special fund and county assistance special fund, to receive allocations from transient accommodations tax revenue. Repeals the Hawaii tourism authority. Effective 6/30/3000. (HD2)

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

