

JAN 25 2023

A BILL FOR AN ACT

RELATING TO WORKFORCE DEVELOPMENT.

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

1 SECTION 1. The legislature finds that state workforce
2 development boards assist the governors by reviewing statewide
3 policies and programs, and making recommendations to align
4 workforce, education, training, and employment funding programs
5 in a state in a manner that supports a comprehensive and
6 streamlined workforce development system in the state. As part
7 of the statewide review function in assisting the governors, the
8 Workforce Innovation and Opportunity Act and related regulations
9 outline requirements regarding conflicts of interest for
10 recipients and subrecipients of federal awards as well as for
11 state and local workforce development board and standing
12 committee members.

13 The legislature further finds that Act 88, Session Laws of
14 Hawaii 2021, also known as the General Appropriations Act of
15 2021, eliminated the program identification number for the
16 workforce development council and transferred its appropriation
17 and positions to the workforce development division of the
18 department of labor and industrial relations.

1 The Legislature also finds that reports on the activities
2 of the k-12 agriculture workforce development pipeline
3 initiative are no longer needed and that requirement should be
4 repealed from section 371-21, Hawaii Revised Statutes.

5 The purpose of this Act is to amend the workforce
6 development council law to be consistent with the state budget
7 as enacted in Act 88, Session Laws of Hawaii 2021, and to
8 conform the state workforce development board statute to the
9 nomenclature and conflict of interest provisions found in the
10 Workforce Innovation and Opportunity Act and related regulations
11 in the Code of Federal Regulations.

12 SECTION 2. Chapter 202, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§202- Conflict of interest. (a) The Hawaii workforce
16 development board and local workforce development boards shall
17 develop written conflict of interest policies consistent with
18 P.L. 113-128 (29 U.S.C. 3111(f) and 3122(h)), title 29 Code of
19 Federal Regulations section 97.36, title 20 Code of Federal
20 Regulations parts 679 and 683, title 2 Code of Federal
21 Regulations parts 200 and 2900, as amended, and chapter 84.

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1 **(b)** Separate from and in addition to any standards of
2 conduct set forth in chapter 84, a member or standing committee
3 member of the Hawaii workforce development board, or a member or
4 standing committee member of a local workforce development board
5 shall not:

6 **(1)** Vote on or participate in a discussion about a matter
7 under consideration by the board or standing
8 committee:

9 **(A)** Regarding the provision of services by such
10 member, or by an entity such member represents;

11 or

12 **(B)** That would provide direct financial benefit to
13 such member or such member's immediate family; or

14 **(2)** Engage in any other activity determined by the
15 governor to constitute a conflict of interest under
16 P.L. 113-128 (29 U.S.C. 3111(f) and 3122(h)) title 29
17 Code of Federal Regulations section 97.36, title 20
18 Code of Federal Regulations parts 679 and 683, and
19 title 2 Code of Federal Regulations parts 200 and
20 2900."

21 SECTION 3. Chapter 202, Hawaii Revised Statutes, is
22 amended by amending its title to read as follows:

1 "CHAPTER 202

2 HAWAII WORKFORCE DEVELOPMENT [~~COUNCIL~~] BOARD"

3 SECTION 4. Section 202-1, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§202-1 [Council,]~~ Hawaii workforce development board;
6 appointment; tenure. [~~+~~] (a) [~~+~~] ~~The advisory commission on~~
7 ~~employment and human resources is hereby constituted as the~~
8 ~~workforce development council.]~~ The [~~council~~] Hawaii workforce
9 development board is established and placed within the
10 department of labor and industrial relations and shall [also]
11 fulfill the functions of the state workforce development board
12 for purposes of the federal Workforce Innovation and Opportunity
13 Act of 2014, P.L. No. 113-128 [-] (29 U.S.C. 3101 et. seq.).

14 (b) Except for the ex officio members or their designees,
15 the [~~council~~] board members shall be appointed by the governor
16 for four-year staggered terms as provided for in section 26-34.
17 The governor shall [~~appoint~~] select the chairperson of the
18 [~~council.~~] board from among the private sector members set forth
19 in paragraph (4). The [~~council~~] board shall be constituted as
20 provided by the federal Workforce Innovation and Opportunity Act
21 of 2014, P.L. 113-128 (29 U.S.C. 3111), of the following
22 members:

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- 1 (1) The directors of labor and industrial relations and of
2 business, economic development, and tourism; the
3 superintendent of education; and the president of the
4 University of Hawaii or their designees, as ex
5 officio, voting members;
- 6 (2) The administrator of the division of vocational
7 rehabilitation, department of human services, as an ex
8 officio, voting member;
- 9 (3) The private sector chairpersons of the four [county]
10 local workforce development boards, or their designees
11 from the private sector membership of their respective
12 boards, as ex officio, voting members;
- 13 (4) Seventeen representatives from the private sector,
14 including nonprofit organizations and businesses in
15 the State, appointed from individuals nominated by
16 state business organizations and business trade
17 associations;
- 18 (5) Eight representatives from labor organizations and
19 workforce training organizations, two or more of whom
20 shall be representatives of labor organizations who
21 have been nominated by state labor federations, and
22 one of whom shall be a labor representative from a

1 community-based native Hawaiian organization that
2 operates workforce development programs;

3 (6) A member of each house of the legislature, for two-
4 year terms beginning in January of odd-numbered years,
5 appointed by the appropriate presiding officer of each
6 house, as ex officio, voting members;

7 (7) The four mayors or their designees, as ex officio,
8 voting members; and

9 (8) The governor or the governor's designee.

10 ~~[(c)]~~ ~~[-Council]~~ Board members shall serve without
11 compensation but shall be reimbursed for travel expenses
12 necessary for the performance of their duties.

13 ~~[(d)]~~ ~~From June 6, 2016, and until such time that the~~
14 ~~council has forty one members, sixteen council members shall~~
15 ~~constitute a quorum to do business, and the concurrence of at~~
16 ~~least sixteen council members shall be necessary to make any~~
17 ~~action of the council valid.~~

18 ~~[(e)]~~ (d) All ~~[ecouncil]~~ board members may continue to
19 serve on the ~~[ecouncil]~~ board until their respective successors
20 have been appointed. A person appointed to fill a vacancy shall
21 serve the remainder of the term of the person's predecessor."

1 SECTION 5. Section 202-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§202-3 Powers of [~~council~~] board. (a) The Hawaii
4 workforce development [~~council~~] board shall appoint and fix the
5 compensation of an executive director, who shall be exempt from
6 [~~chapter~~] chapters 76 [~~, and may employ any other personnel as it~~
7 ~~deems advisable within chapter 76.~~] and 89.

8 [~~(b) The council, or on the authorization of the council,~~
9 ~~any subcommittee or panel thereof, may, for the purpose of~~
10 ~~carrying out its functions and duties, hold such hearings and~~
11 ~~sit and act at such times and places as the council may deem~~
12 ~~advisable.~~

13 [~~(c) The council may negotiate and enter into contracts~~
14 ~~with public agencies or private organizations to carry out its~~
15 ~~studies and to prepare reports that the council determines to be~~
16 ~~necessary to the fulfillment of its duties.]~~

17 [~~(d)~~] (b) The [~~council~~] board may secure through the
18 governor's office, any information from any executive
19 department, agency, or independent instrumentality of the State
20 it deems necessary to carry out its functions.

21 [~~(e)~~] (c) The [~~council~~] board may convene such public
22 conferences and forums as it deems useful to keep the public

1 informed of workforce development needs, developments, and
2 initiatives.

3 ~~[(f) The council may administer funds allocated for its
4 work and may accept, disburse, and allocate funds which may
5 become available from other governmental and private sources,
6 provided that all the funds shall be disbursed or allocated in
7 compliance with the objectives set forth herein, and applicable
8 laws.] "~~

9 SECTION 6. Section 304A-303, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) There is established a career and technical education
12 coordinating advisory council, which shall serve in an advisory
13 capacity to the board of regents. The council shall consist of
14 eleven members, nine appointed and two ex officio[+], [+]
15 members. Of the nine appointed members:

16 (1) Three shall be appointed from the board of regents by
17 the chairperson of that body;

18 (2) Three shall be appointed from the board of education
19 by the chairperson of that body; and

20 (3) Three shall be appointed from the Hawaii workforce
21 development [~~council~~] board by that [~~council~~] board.

1 Of the three members appointed from the Hawaii workforce
2 development [~~ecouncil,~~] board, one member shall represent
3 management, one member shall represent labor, and the third
4 shall represent the public. Of the two ex officio members, one
5 shall be the president of the university and the other shall be
6 the superintendent of education."

7 SECTION 7. Section 371-21, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~§~~371-21~~§~~ **K-12 agriculture workforce development**
10 **pipeline initiative.** (a) There shall be created in the
11 department a k-12 agriculture workforce development pipeline
12 initiative to conduct training sessions for teachers and school
13 administrators on the islands of Oahu, Hawaii, Maui, Molokai,
14 Lanai, and Kauai, regarding agricultural self-sufficiency.

15 (b) The k-12 agriculture workforce development pipeline
16 initiative shall be headed by a coordinator who shall be
17 appointed by the director, subject to chapter 76, to carry out
18 the purposes of this section, which may include developing and
19 proposing scholarships, travel offsets, course credits, and
20 stipends. The coordinator may hire, subject to chapter 76,
21 necessary staff, including a workforce development specialist,
22 to carry out the purposes of this section.

1 (c) Course material for the training sessions under
2 subsection (a) shall be approved by the Hawaii agriculture
3 workforce advisory board established pursuant to section 371-19.

4 [~~(d) The department shall submit annual reports to the~~
5 ~~legislature on the activities of the k-12 agriculture workforce~~
6 ~~development pipeline initiative.] "~~

7 SECTION 8. Section 348-8, Hawaii Revised Statutes, is
8 amended by substituting the words "workforce development board"
9 wherever the words "workforce development council" appear, as
10 the context requires.

11 SECTION 9. Sections 201-16, 202-10, 304A-1143, 304A-3252,
12 373C-23, and 394-5, Hawaii Revised Statutes, are amended by
13 substituting the words "Hawaii workforce development board"
14 wherever the words "workforce development council" appear, as
15 the context requires.

16 SECTION 10. Sections 202-2 and 202-4, Hawaii Revised
17 Statutes, are amended by substituting the word "board" wherever
18 the word "council" appears and substituting the words "Hawaii
19 workforce development board" wherever the words "workforce
20 development council" appear, as the context requires.

21 SECTION 11. Section 202-5, Hawaii Revised Statutes, is
22 repealed.

1 ~~["§202-5 Organizational relationships. The workforce~~
2 ~~development council is placed within the department of labor and~~
3 ~~industrial relations for administrative purposes and shall act~~
4 ~~in an advisory capacity to the governor."]~~

5 SECTION 12. All rules, policies, procedures, guidelines,
6 and other material adopted or developed by the workforce
7 development council to implement provisions of the Hawaii
8 Revised Statutes that are reenacted or made applicable to the
9 department of labor and industrial relations by this Act shall
10 remain in full force and effect until amended or repealed by the
11 department of labor and industrial relations pursuant to chapter
12 91, Hawaii Revised Statutes, as appropriate. In the interim,
13 every reference to the workforce development council in those
14 rules, policies, procedures, guidelines, and other material is
15 amended to refer to the department of labor and industrial
16 relations, as appropriate.

17 SECTION 13. All deeds, leases, contracts, loans,
18 agreements, permits, or other documents executed or entered into
19 by or on behalf of the workforce development council, pursuant
20 to the provisions of the Hawaii Revised Statutes, that are
21 reenacted or made applicable to the department of labor and
22 industrial relations by this Act shall remain in full force and

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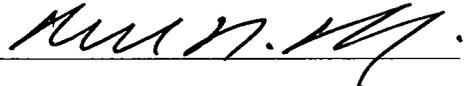
1 effect. Upon the effective date of this Act, every reference to
2 the workforce development council or the executive director of
3 the workforce development council in those deeds, leases,
4 contracts, loans, agreements, permits, or other documents shall
5 be construed as a reference to the department of labor and
6 industrial relations, as appropriate.

7 SECTION 14. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 15. This Act shall take effect upon its approval.

10

11

INTRODUCED BY: 

12

BY REQUEST

S.B. NO. 1384

Report Title:

Hawaii Workforce Development Council; Hawaii Workforce Development Board; Conflict of Interest; Chairperson of Board; K-12 Agriculture Workforce Development Pipeline Initiative

Description:

Amends chapter 202, Hawaii Revised Statutes, to be consistent with the General Appropriations Act of 2021, Act 88, Session Laws of Hawaii 2021. Renames "Workforce Development Council" "Hawaii Workforce Development Board" and "county workforce development board" "local workforce development board". Requires the Hawaii Workforce Development Board and local workforce development boards to develop written conflict of interest policies consistent with federal law and regulations. Requires the Governor to select the chairperson of the state board among the private sector members set forth in section 202-1(b)(4), Hawaii Revised Statutes. Repeals the requirement in 371-21(d), Hawaii Revised Statutes, for the DLIR to submit an annual report to the legislature on the activities of the K-12 agriculture workforce development pipeline initiative.

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: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO WORKFORCE DEVELOPMENT.

PURPOSE: To amend chapter 202, Hawaii Revised Statutes (HRS), to be consistent with the state budget as enacted in the General Appropriations Act of 2021, Act 88, Session Laws of Hawaii 2021; conform the law to the conflict of interest provisions and nomenclature found in the Workforce Innovation and Opportunity Act (WIOA) and corresponding federal regulations; require the Governor to select the chairperson of the state workforce development board among the private members set forth in section 202-1(b)(4), HRS; and delete the requirement in 371-21(d), HRS, for the Department of Labor and Industrial Relations (Department) to submit an annual report to the legislature on the activities of the K-12 agriculture workforce development pipeline initiative.

MEANS: Add a new section to chapter 202, HRS, amend the title of chapter 202, HRS, amend sections 202-1, 202-3, 304A-303(a), and 348-8, HRS, and amend by reference only to eight other HRS sections, and repeal sections 202-5 and 371-21(d), HRS.

JUSTIFICATION: The General Appropriations Act of 2021 eliminated the program identification number (LBR-135) of the Workforce Development Council and transferred its appropriation and positions to the Workforce Development Division.

The WIOA and related regulations found in 2 C.F.R part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), 29 C.F.R. part 2900 and section 97.36, and 20 C.F.R.

part 683 (Administrative Provisions Under Title I of the WIOA) and part 679 address conflicts of interest for non-federal entities and for recipients and subrecipients of federal awards under title I of the WIOA.

2 C.F.R. part 200 and part 2900 establish uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities and requires written standards of conduct covering conflicts of interest and governing the actions of employees.

20 C.F.R. part 683 requires that state and local workforce development board and standing committee members cannot vote on or participate in any decision-making capacity on the provision of services or any matter that would provide direct financial benefit to that member or the member's family. This bill codifies those federal regulations in the state law.

The bill also makes the terminology used in the state statutes consistent with the federal law: "Workforce Development Council" is changed to "Hawaii Workforce Development Board", and "county workforce development board" is changed to "local workforce development board". This bill also clarifies that the Governor selects the chairperson of the board.

The bill also repeals the requirement for the Department to report to the legislature the activities of the K-12 agriculture workforce development pipeline initiative as the initiative has not received any funding since fiscal year 2016-2017.

Impact on the public: This bill will give the public greater confidence that ethical standards of conduct are being met by codifying conflict of interest policies.

Impact on the department and other agencies:
Enactment of this bill will help align the current statute with changes made in the General Appropriations Act of 2021.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LBR 111.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.