

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

3 "Director" means the director of the agency.

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

7 § -2 **Destination management agency; commission;**
8 **established.** (a) There is established the destination
9 management agency, which shall be a body corporate and a public
10 instrumentality of the State, for the purpose of implementing
11 this chapter. The agency shall be placed within the department
12 of business, economic development, and tourism for
13 administrative purposes only.

14 (b) The agency shall be headed by a commission that shall
15 consist of three members who are appointed by the governor in
16 the manner prescribed in section 26-34, except that the members
17 shall not be subject to the advice and consent of the senate.
18 The members shall be appointed for terms of four years; provided
19 that membership on the commission shall not exceed eight
20 consecutive years; provided further that each member shall hold
21 office until the member's successor is appointed and qualified.



1 The governor shall provide for staggered terms of the initially
2 appointed members.

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

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

14 § -3 Authority; private attorneys. (a) The commission
15 may appoint or retain by contract one or more attorneys who are
16 independent of the attorney general to provide legal services
17 for the commission solely in cases of contract negotiations in
18 which the attorney general lacks sufficient expertise; provided
19 that the independent attorney shall consult and work in
20 conjunction with the designated deputy attorney general assigned
21 to the agency.



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

5 § -4 Powers, generally. (a) Except as otherwise
6 limited by this chapter, the agency may:

- 7 (1) Sue and be sued;
- 8 (2) Have a seal and alter the same at its pleasure;
- 9 (3) Through its director, make and execute contracts and
10 all other instruments necessary or convenient for the
11 exercise of its powers and functions under this
12 chapter; provided that the agency may enter into
13 contracts and agreements for a period of up to five
14 years, subject to the availability of funds; provided
15 further that the agency may enter into agreements for
16 the use of the convention center facility for a period
17 of up to ten years;
- 18 (4) Make and alter bylaws for its organization and
19 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 (c) As used in this section, "Hawaii brand" has the same
 15 meaning as in section -8.

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



1 (1) Information that is proprietary to a particular
2 enterprise or the disclosure of which might be harmful
3 to the business interests of the enterprise; or
4 (2) Information that is necessary to protect Hawaii's
5 competitive advantage as a visitor destination,
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 As used in this section, "Hawaii brand" means the programs
4 that collectively differentiate the Hawaii experience from other
5 destinations.

6 § -9 **Tourism-related activities.** (a) The agency may
7 enter into contracts and agreements that include the following:

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



1 the convention center facility as a commercial
2 enterprise;

3 (7) Tourism research and statistics to:

4 (A) Measure and analyze tourism trends;

5 (B) Provide information and research to assist in the
6 development and implementation of state tourism
7 policy; and

8 (C) Provide tourism information on:

9 (i) Visitor arrivals, visitor characteristics,
10 and expenditures;

11 (ii) The number of transient accommodation units
12 available, occupancy rates, and room rates;

13 (iii) Airline-related data including seat capacity
14 and number of flights;

15 (iv) The economic, social, and physical impacts
16 of tourism on the State; and

17 (v) The effects of the visitor educational
18 marketing programs of the agency on the
19 measures of effectiveness developed pursuant
20 to section -7; and



1 (8) Any and all other activities necessary to carry out
2 the intent of this chapter;
3 provided that the agency shall periodically submit a report of
4 the contracts and agreements entered into by the agency to the
5 governor, speaker of the house of representatives, and president
6 of the senate.

7 (b) The agency shall be responsible for:

- 8 (1) Creating a vision and developing a long-range
9 strategic plan for tourism in Hawaii;
- 10 (2) Promoting and developing the tourism industry in the
11 State;
- 12 (3) Arranging for the conduct of research through
13 contractual services with the University of Hawaii or
14 any agency or other qualified persons concerning
15 social, economic, and environmental aspects of tourism
16 development in the State;
- 17 (4) Providing technical or other assistance to agencies
18 and private industry upon request;
- 19 (5) Perpetuating the uniqueness of the native Hawaiian
20 culture and community, and their importance to the
21 quality of the visitor experience, by ensuring that:



- 1 (A) The Hawaiian culture is accurately portrayed by
2 Hawaii's visitor industry;
- 3 (B) Hawaiian language is supported and normalized as
4 both an official language of the State as well as
5 the foundation of the host culture that draws
6 visitors to Hawaii;
- 7 (C) Hawaiian cultural practitioners and cultural
8 sites that give value to Hawaii's heritage are
9 supported, nurtured, and engaged in sustaining
10 the visitor industry; and
- 11 (D) A native Hawaiian cultural education and training
12 program is provided for the visitor industry
13 workforce having direct contact with visitors;
14 and
- 15 (6) Reviewing annually the expenditure of public funds by
16 any visitor industry organization that contracts with
17 the agency to perform tourism promotion and
18 development and making recommendations necessary to
19 ensure the effective use of the funds for the
20 development of tourism.



1 (c) The agency may delegate to staff the responsibility
2 for soliciting, awarding, and executing contracts and for
3 monitoring and facilitating any and all functions developed in
4 accordance with this section.

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

- 12 (1) Completed survey forms and questionnaire forms;
- 13 (2) Coding sheets; and
- 14 (3) Database records of the information.

15 **§ -10 Applicability of Hawaii public procurement code;**
16 **convention center contractor; construction contracts.** The
17 construction contracts for the maintenance of the convention
18 center facility by the private contractor that operates the
19 convention center, by its direct or indirect receipt of, and its
20 expenditure of, public funds from the department of business,



1 economic development, and tourism or the agency, or both, shall
2 be subject to part III of chapter 103D.

3 **§ -11 Convention center enterprise special fund.** (a)

4 There is established the convention center enterprise special
5 fund, into which shall be deposited:

- 6 (1) A portion of the revenues from the transient
7 accommodations tax, as provided by section 237D-6.5;
- 8 (2) All revenues or moneys derived from the operations of
9 the convention center to include all revenues from the
10 food and beverage service, all revenues from the
11 parking facilities or from any concession, and all
12 revenues from the sale of souvenirs, logo items, or
13 any other items offered for purchase at the convention
14 center; and
- 15 (3) Private contributions, interest, compensation, gross
16 or net revenues, proceeds, or other moneys derived
17 from any source or for any purpose arising from the
18 use of the convention center facility.

19 (b) Moneys in the convention center enterprise special
20 fund shall be used by the agency for the payment of expenses
21 arising from any and all use, operation, maintenance,



1 alteration, improvement, or any unforeseen or unplanned repairs
2 of the convention center, including without limitation the food
3 and beverage service and parking service provided at the
4 convention center facility, the sale of souvenirs, logo items,
5 or other items, for any future major repair, maintenance, and
6 improvement of the convention center facility as a commercial
7 enterprise or as a world class facility for conventions,
8 entertainment, or public events.

9 (c) Moneys in the convention center enterprise special
10 fund may be:

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

14 (2) Otherwise invested by the agency until a time as the
15 moneys may be needed; provided that the agency shall
16 limit its investments to those listed in section 36-
17 21.

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

20 § -12 **Tourism emergency.** (a) If the commission
21 determines that the occurrence of a world conflict, terrorist



1 threat, national or global economic crisis, natural disaster,
2 outbreak of disease, or other catastrophic event adversely
3 affects Hawaii's tourism industry by resulting in a substantial
4 interruption in the commerce of the State and adversely
5 affecting the welfare of its people, the commission shall submit
6 a request to the governor to declare that a tourism emergency
7 exists.

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

20 § -13 **Tourism emergency special fund.** (a) There is
21 established outside the state treasury a tourism emergency



1 special fund to be administered by the commission, into which
2 shall be deposited the revenues prescribed by section 237D-
3 6.5(b) and all investment earnings credited to the assets of the
4 fund.

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

10 (c) Use of the special fund, consistent with subsection
11 (b), shall be provided for in articles, bylaws, resolutions, or
12 other instruments executed by the commission as administrator
13 for the special fund.

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

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

20 (2) Appropriations by the legislature to the tourism
21 special fund; and



- 1 (3) Gifts, grants, and other funds accepted by the agency.
- 2 (b) Moneys in the tourism special fund may be:
 - 3 (1) Placed in interest-bearing accounts; provided that the
 - 4 depository in which the money is deposited furnishes
 - 5 security as provided in section 38-3; or
 - 6 (2) Otherwise invested by the agency until a time as the
 - 7 moneys may be needed; provided that the agency shall
 - 8 limit its investments to those listed in section 36-
 - 9 21.

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

- 12 (c) Moneys in the tourism special fund:
 - 13 (1) Shall be used by the agency for the purposes of this
 - 14 chapter; provided that:
 - 15 (A) No more than 3.5 per cent of this amount shall be
 - 16 used for administrative expenses, including
 - 17 \$15,000 for a protocol fund to be expended at the
 - 18 discretion of the director of the agency; and
 - 19 (B) At least \$1,000,000 shall be made available to
 - 20 support efforts to manage, improve, and protect



1 Hawaii's natural environment and areas frequented
2 by visitors; and

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

6 **§ -15 County assistance special fund; established.** (a)

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

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

12 (2) Appropriations by the legislature to the county
13 assistance special fund.

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

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



1 interest of the agency in any project shall also be exempt from
2 all state taxation. Except as otherwise provided by law, the
3 interest of a qualified person or other user of a project or a
4 project agreement or other agreements related to a project shall
5 not be exempt from taxation to a greater extent than it would be
6 if the costs of the project were directly financed by the
7 qualified person or user.

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

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

19 (1) Measures to respond to tourism emergencies pursuant to
20 section -12;



- 1 (2) Programs for the management, improvement, and
- 2 protection of Hawaii's natural environment and other
- 3 areas frequented by visitors;
- 4 (3) Measures to address issues affecting airlines, air
- 5 routes, and barriers to travel to Hawaii; and
- 6 (4) Programs to perpetuate the cultures of Hawaii and
- 7 engage local communities to sustain and preserve the
- 8 native Hawaiian culture.

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

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



1 therein except election cases, irrespective of position on the
2 calendar.

3 (b) Upon application of counsel to the agency, the same
4 preference shall be granted in any action or proceeding
5 questioning the validity of this chapter in which the agency may
6 be allowed to intervene.

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

14 (d) Notwithstanding any provision of law to the contrary,
15 declaratory relief from the circuit court may be obtained for
16 any action.

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

20 § -20 **Annual report.** The agency shall submit a complete
21 and detailed report of its activities, expenditures, and



1 results, including the progress of the visitor educational
2 marketing plan developed pursuant to section -7, toward
3 achieving the agency's strategic plan goals, to the governor and
4 legislature at least twenty days prior to the convening of each
5 regular session. The annual report shall include the
6 descriptions and evaluations of programs funded, together with
7 any recommendations the agency may make."

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

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

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

18 (1) By the public utilities commission, the labor and
19 industrial relations appeals board, and the Hawaii
20 labor relations board;



- 1 (2) By any court or judicial or legislative office of the
2 State; provided that if the attorney general is
3 requested to provide representation to a court or
4 judicial office by the chief justice or the chief
5 justice's designee, or to a legislative office by the
6 speaker of the house of representatives and the
7 president of the senate jointly, and the attorney
8 general declines to provide such representation on the
9 grounds of conflict of interest, the attorney general
10 shall retain an attorney for the court, judicial, or
11 legislative office, subject to approval by the court,
12 judicial, or legislative office;
- 13 (3) By the legislative reference bureau;
- 14 (4) By any compilation commission that may be constituted
15 from time to time;
- 16 (5) By the real estate commission for any action involving
17 the real estate recovery fund;
- 18 (6) By the contractors license board for any action
19 involving the contractors recovery fund;
- 20 (7) By the office of Hawaiian affairs;



- 1 (8) By the department of commerce and consumer affairs for
- 2 the enforcement of violations of chapters 480 and
- 3 485A;
- 4 (9) As grand jury counsel;
- 5 (10) By the Hawaii health systems corporation, or its
- 6 regional system boards, or any of their facilities;
- 7 (11) By the auditor;
- 8 (12) By the office of ombudsman;
- 9 (13) By the insurance division;
- 10 (14) By the University of Hawaii;
- 11 (15) By the Kahoolawe island reserve commission;
- 12 (16) By the division of consumer advocacy;
- 13 (17) By the office of elections;
- 14 (18) By the campaign spending commission;
- 15 (19) By the [~~Hawaii tourism authority, as provided in~~
- 16 ~~section 201B-2.5,]~~ destination management agency, as
- 17 provided in section -3;
- 18 (20) By the division of financial institutions;
- 19 (21) By the office of information practices;
- 20 (22) By the school facilities authority;



1 (23) By the Mauna Kea stewardship and oversight authority;
2 or

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

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

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



1 SECTION 3. Section 36-27, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Except as provided in this section, and
4 notwithstanding any other law to the contrary, from time to
5 time, the director of finance, for the purpose of defraying the
6 prorated estimate of central service expenses of government in
7 relation to all special funds, except the:

- 8 (1) Special out-of-school time instructional program fund
9 under section 302A-1310;
- 10 (2) School cafeteria special funds of the department of
11 education;
- 12 (3) Special funds of the University of Hawaii;
- 13 (4) Convention center enterprise special fund under
14 section [~~201B-8,~~] -11;
- 15 (5) Special funds established by section 206E-6;
- 16 (6) Aloha Tower fund created by section 206J-17;
- 17 (7) Funds of the employees' retirement system created by
18 section 88-109;
- 19 (8) Hawaii hurricane relief fund established under chapter
20 431P;



- 1 (9) Hawaii health systems corporation special funds and
2 the subaccounts of its regional system boards;
- 3 (10) Universal service fund established under section 269-
4 42;
- 5 (11) Emergency and budget reserve fund under section 328L-
6 3;
- 7 (12) Public schools special fees and charges fund under
8 section 302A-1130;
- 9 (13) Sport fish special fund under section 187A-9.5;
- 10 (14) Neurotrauma special fund under section 321H-4;
- 11 (15) Glass advance disposal fee established by section
12 342G-82;
- 13 (16) Center for nursing special fund under section 304A-
14 2163;
- 15 (17) Passenger facility charge special fund established by
16 section 261-5.5;
- 17 (18) Solicitation of funds for charitable purposes special
18 fund established by section 467B-15;
- 19 (19) Land conservation fund established by section 173A-5;
- 20 (20) Court interpreting services revolving fund under
21 section 607-1.5;



- 1 (21) Trauma system special fund under section 321-22.5;
- 2 (22) Hawaii cancer research special fund;
- 3 (23) Community health centers special fund;
- 4 (24) Emergency medical services special fund;
- 5 (25) Rental motor vehicle customer facility charge special
- 6 fund established under section 261-5.6;
- 7 (26) Shared services technology special fund under section
- 8 27-43;
- 9 (27) Automated victim information and notification system
- 10 special fund established under section 353-136;
- 11 (28) Deposit beverage container deposit special fund under
- 12 section 342G-104;
- 13 (29) Hospital sustainability program special fund under
- 14 section 346G-4;
- 15 (30) Nursing facility sustainability program special fund
- 16 under section 346F-4;
- 17 (31) Hawaii 3R's school improvement fund under section
- 18 302A-1502.4;
- 19 (32) After-school plus program revolving fund under section
- 20 302A-1149.5;



1 (33) Civil monetary penalty special fund under section 321-
2 30.2; [~~and~~
3 +] (34) [+] Stadium development special fund under section
4 109-3.5[~~7~~];
5 (35) Tourism special fund under section -14; and
6 (36) County assistance special fund under section -15,
7 shall deduct five per cent of all receipts of all other special
8 funds, which deduction shall be transferred to the general fund
9 of the State and become general realizations of the State. All
10 officers of the State and other persons having power to allocate
11 or disburse any special funds shall cooperate with the director
12 in effecting these transfers. To determine the proper revenue
13 base upon which the central service assessment is to be
14 calculated, the director shall adopt rules pursuant to chapter
15 91 for the purpose of suspending or limiting the application of
16 the central service assessment of any fund. No later than
17 twenty days prior to the convening of each regular session of
18 the legislature, the director shall report all central service
19 assessments made during the preceding fiscal year."

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



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



- 1 (12) Public schools special fees and charges fund under
- 2 section 302A-1130;
- 3 (13) Sport fish special fund under section 187A-9.5;
- 4 (14) Neurotrauma special fund under section 321H-4;
- 5 (15) Center for nursing special fund under section 304A-
- 6 2163;
- 7 (16) Passenger facility charge special fund established by
- 8 section 261-5.5;
- 9 (17) Court interpreting services revolving fund under
- 10 section 607-1.5;
- 11 (18) Trauma system special fund under section 321-22.5;
- 12 (19) Hawaii cancer research special fund;
- 13 (20) Community health centers special fund;
- 14 (21) Emergency medical services special fund;
- 15 (22) Rental motor vehicle customer facility charge special
- 16 fund established under section 261-5.6;
- 17 (23) Shared services technology special fund under section
- 18 27-43;
- 19 (24) Nursing facility sustainability program special fund
- 20 established pursuant to section 346F-4;



- 1 (25) Automated victim information and notification system
- 2 special fund established under section 353-136;
- 3 (26) Hospital sustainability program special fund under
- 4 section 346G-4;
- 5 (27) Civil monetary penalty special fund under section 321-
- 6 30.2; [~~and~~
- 7 +](28)[+] Stadium development special fund under section
- 8 109-3.5[~~r~~];
- 9 (29) Tourism special fund under section -14; and
- 10 (30) County assistance special fund under section -15,

11 shall be responsible for its pro rata share of the
 12 administrative expenses incurred by the department responsible
 13 for the operations supported by the special fund concerned."

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

16 "(e) Subject to the restrictions imposed in subsections
 17 (a) through (d), the following individuals shall not represent
 18 any person or business for a fee or other consideration
 19 regarding any legislative action or administrative action, as
 20 defined in section 97-1, for twelve months after termination
 21 from their respective positions:



- 1 (1) The governor;
- 2 (2) The lieutenant governor;
- 3 (3) The administrative director of the State;
- 4 (4) The attorney general;
- 5 (5) The comptroller;
- 6 (6) The chairperson of the board of agriculture;
- 7 (7) The director of finance;
- 8 (8) The director of business, economic development, and
- 9 tourism;
- 10 (9) The director of commerce and consumer affairs;
- 11 (10) The adjutant general;
- 12 (11) The superintendent of education;
- 13 (12) The chairperson of the Hawaiian homes commission;
- 14 (13) The director of health;
- 15 (14) The director of human resources development;
- 16 (15) The director of human services;
- 17 (16) The director of labor and industrial relations;
- 18 (17) The chairperson of the board of land and natural
- 19 resources;
- 20 (18) The director of public safety;
- 21 (19) The director of taxation;



- 1 (20) The director of transportation;
- 2 (21) The president of the University of Hawaii;
- 3 (22) The executive administrator of the board of regents of
4 the University of Hawaii;
- 5 (23) The administrator of the office of Hawaiian affairs;
- 6 (24) The chief information officer;
- 7 (25) The executive director of the agribusiness development
8 corporation;
- 9 (26) The executive director of the campaign spending
10 commission;
- 11 (27) The executive director of the Hawaii community
12 development authority;
- 13 (28) The executive director of the Hawaii housing finance
14 and development corporation;
- 15 (29) The [~~president and chief executive officer of the~~
16 ~~Hawaii tourism authority;~~] director of the destination
17 management agency;
- 18 (30) The executive officer of the public utilities
19 commission;
- 20 (31) The state auditor;
- 21 (32) The director of the legislative reference bureau;



- 1 (33) The ombudsman;
- 2 (34) The permanent employees of the legislature, other than
- 3 persons employed in clerical, secretarial, or similar
- 4 positions;
- 5 (35) The administrative director of the courts;
- 6 (36) The executive director of the state ethics commission;
- 7 (37) The executive officer of the state land use
- 8 commission;
- 9 (38) The executive director of the natural energy
- 10 laboratory of Hawaii authority;
- 11 (39) The executive director of the Hawaii public housing
- 12 authority; and
- 13 (40) The first deputy to the chairperson of the commission
- 14 on water resource management;

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

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



1 "(d) A retirant may be employed without reenrollment in
2 the system and suffer no loss or interruption of benefits
3 provided by the system or under chapter 87A if the retirant is
4 employed:

5 (1) As an elective officer pursuant to section 88-42.6(c)
6 or as a member of the legislature pursuant to section
7 88-73(d);

8 (2) As a juror or precinct official;

9 (3) As a part-time or temporary employee excluded from
10 membership in the system pursuant to section 88-43, as
11 a session employee excluded from membership in the
12 system pursuant to section 88-54.2, as the [~~president
13 and chief executive officer of the Hawaii tourism
14 authority~~] director of the destination management
15 agency excluded from membership in the system pursuant
16 to section 201B-2, or as any other employee expressly
17 excluded by law from membership in the system;
18 provided that:

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



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



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

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

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

- 18 (1) The chairs of the standing committees of the
- 19 legislature with subject matter jurisdiction
- 20 encompassing environmental protection and land use;



- 1 (2) The chairperson of the board of land and natural
2 resources or the chairperson's designee, who shall be
3 the co-chair of the commission;
- 4 (3) The director of the office of planning and sustainable
5 development or the director's designee, who shall be
6 the co-chair of the commission;
- 7 (4) The director of business, economic development, and
8 tourism or the director's designee;
- 9 (5) The chairperson of the [~~board of directors of the~~
10 ~~Hawaii tourism authority~~] destination management
11 commission or the chairperson's designee;
- 12 (6) The chairperson of the board of agriculture or the
13 chairperson's designee;
- 14 (7) The chief executive officer of the office of Hawaiian
15 affairs or the officer's designee;
- 16 (8) The chairperson of the Hawaiian homes commission or
17 the chairperson's designee;
- 18 (9) The director of transportation or the director's
19 designee;
- 20 (10) The director of health or the director's designee;



- 1 (11) The adjutant general or the adjutant general's
- 2 designee;
- 3 (12) The chairperson of the board of education or the
- 4 chairperson's designee;
- 5 (13) The directors of each of the county planning
- 6 departments, or the directors' designees; and
- 7 (14) The manager of the coastal zone management program."

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

10 **"§237-24.75 Additional exemptions.** In addition to the
 11 amounts exempt under section 237-24, this chapter shall not
 12 apply to:

- 13 (1) Amounts received as a beverage container deposit
- 14 collected under chapter 342G, part VIII;
- 15 (2) Amounts received by the operator of the Hawaii
- 16 convention center for reimbursement of costs or
- 17 advances made pursuant to a contract with the [~~Hawaii~~
- 18 ~~tourism authority under section 201B-7;~~] destination
- 19 management agency under section -9; and
- 20 (3) Amounts received by a professional employer
- 21 organization that is registered with the department of



1 labor and industrial relations pursuant to chapter
2 373L, from a client company equal to amounts that are
3 disbursed by the professional employer organization
4 for employee wages, salaries, payroll taxes, insurance
5 premiums, and benefits, including retirement,
6 vacation, sick leave, health benefits, and similar
7 employment benefits with respect to covered employees
8 at a client company; provided that this exemption
9 shall not apply to amounts received by a professional
10 employer organization after:

11 (A) Notification from the department of labor and
12 industrial relations that the professional employer
13 organization has not fulfilled or maintained the
14 registration requirements under this chapter; or

15 (B) A determination by the department that the
16 professional employer organization has failed to pay
17 any tax withholding for covered employees or any
18 federal or state taxes for which the professional
19 employer organization is responsible.

20 As used in this paragraph, "professional employer
21 organization", "client company", and "covered



1 employee" shall have the meanings provided in section
2 373L-1."

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

5 "(b) Except for the revenues collected pursuant to section
6 237D-2(e), revenues collected under this chapter shall be
7 distributed in the following priority, with the excess revenues
8 to be deposited into the general fund:

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

20 (2) \$100,000,000 shall be allocated to the tourism special
21 fund established under section -14; provided that:



1 (A) Of the \$100,000,000 allocated:
2 (i) \$50,000,000 shall be deposited into the
3 county assistance special fund under
4 section -15, to provide matching funds to
5 the counties for project in their
6 destination management action plans;
7 (ii) \$1,000,000 shall be allocated for the
8 operation of a Hawaiian center and the
9 museum of Hawaiian music and dance; and
10 (iii) 0.5 per cent of the \$100,000,000 shall be
11 transferred to a subaccount in the tourism
12 special fund to provide funding for a safety
13 and security budget, in accordance with the
14 Hawaii tourism strategic plan 2005-2015; and
15 (B) Of the revenues remaining in the tourism special
16 fund after revenues have been deposited as
17 provided in this paragraph and except for any sum
18 authorized by the legislature for expenditure
19 from revenues subject to this paragraph, funds
20 shall be deposited into the tourism emergency
21 special fund, established in section -13, in a



1 manner sufficient to maintain a fund balance of
2 \$5,000,000 in the tourism emergency special fund;
3 ~~[(2)]~~ (3) \$11,000,000 shall be allocated to the convention
4 center enterprise special fund established under
5 section ~~[201B-8,]~~ -11; and
6 ~~[(3)]~~ ~~An allocation shall be deposited into the tourism~~
7 ~~emergency special fund, established in section 201B-~~
8 ~~10, in a manner sufficient to maintain a fund balance~~
9 ~~of \$5,000,000 in the tourism emergency special fund;~~
10 ~~and]~~
11 (4) \$3,000,000 shall be allocated to the special land and
12 development fund established under section 171-19;
13 provided that the allocation shall be expended in
14 accordance with the ~~[Hawaii tourism authority]~~
15 destination management agency strategic plan for:
16 (A) The protection, preservation, maintenance, and
17 enhancement of natural resources, including
18 beaches, important to the visitor industry;
19 (B) Planning, construction, and repair of facilities;
20 and



1 (C) Operation and maintenance costs of public lands,
2 including beaches, connected with enhancing the
3 visitor experience.

4 All transient accommodations taxes shall be paid into the
5 state treasury each month within ten days after collection and
6 shall be kept by the state director of finance in special
7 accounts for distribution as provided in this subsection."

8 SECTION 10. Chapter 201B, Hawaii Revised Statutes, is
9 repealed.

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

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

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

- 16 (1) Parts VI and VII of this Act shall take effect on
17 January 1, 2022;
- 18 (2) The amendments made to section 87A-42, Hawaii Revised
19 Statutes, in section 8 of this Act shall take effect
20 upon the reenactment of that section on June 30, 2023,



1 pursuant to section 9 of Act 229, Session Laws of
2 Hawaii 2021; and
3 (3) The amendments made to section 237D-6.5(b), Hawaii
4 Revised Statutes, in section 13 of this Act, as
5 amended by section 9 of Act , Session Laws of
6 Hawaii 2023, shall not be repealed when that
7 subsection is reenacted on June 30, 2023, pursuant to
8 section 9 of Act 229, Session Laws of Hawaii 2021.""

9 SECTION 12. All rights, powers, functions, and duties of
10 the Hawaii tourism authority are transferred to the destination
11 management agency.

12 All employees who occupy civil service positions and whose
13 functions are transferred to the destination management agency
14 by this Act shall retain their civil service status, whether
15 permanent or temporary. Employees shall be transferred without
16 loss of salary, seniority (except as prescribed by applicable
17 collective bargaining agreements), retention points, prior
18 service credit, any vacation and sick leave credits previously
19 earned, and other rights, benefits, and privileges, in
20 accordance with state personnel laws and this Act; provided that
21 the employees possess the minimum qualifications and public



1 employment requirements for the class or position to which
2 transferred or appointed, as applicable; provided further that
3 subsequent changes in status may be made pursuant to applicable
4 civil service and compensation laws.

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

20 SECTION 13. All appropriations, records, equipment,
21 machines, files, supplies, contracts, books, papers, documents,



1 maps, and other personal property heretofore made, used,
2 acquired, or held by the Hawaii tourism authority relating to
3 the functions transferred to the destination management agency
4 shall be transferred with the functions to which they relate.

5 SECTION 14. Sections 6E-18, 23-13, 23-76, 46-11, 171-173,
6 and 206E-34, Hawaii Revised Statutes, are amended by
7 substituting the word "destination management agency" or
8 "agency" wherever the word "Hawaii tourism authority" or
9 "authority" appears, as the context requires.

10 SECTION 15. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

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

13



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. (HD1)

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

