
A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION.

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

1 SECTION 1. The legislature finds that Congress, through
2 the Hawaiian Homes Commission Act, 1920, as amended, set aside
3 lands to be used for the benefit of native Hawaiians. As
4 required by the Admission Act, and as a compact with the United
5 States, the State of Hawaii and the people of Hawaii adopted the
6 Hawaiian Homes Commission Act as a provision of the Constitution
7 of the State of Hawaii and agreed to faithfully carry out the
8 spirit of the Hawaiian Homes Commission Act for the
9 rehabilitation of the Hawaiian race. These trust
10 responsibilities remain to this day.

11 Given this unique and significant history, the Hawaiian
12 homes commission should be allowed to retain independent legal
13 counsel. At the same time, the option of utilizing the services
14 of the attorney general as needed should remain available.

15 Accordingly, the purpose of this Act is to allow the
16 Hawaiian homes commission to retain independent counsel.



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

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

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

11 (1) By the public utilities commission, the labor and
12 industrial relations appeals board, and the Hawaii
13 labor relations board;

14 (2) By any court or judicial or legislative office of the
15 State; provided that if the attorney general is
16 requested to provide representation to a court or
17 judicial office by the chief justice or the chief
18 justice's designee, or to a legislative office by the
19 speaker of the house of representatives and the
20 president of the senate jointly, and the attorney
21 general declines to provide such representation on the



- 1 grounds of conflict of interest, the attorney general
2 shall retain an attorney for the court, judicial, or
3 legislative office, subject to approval by the court,
4 judicial, or legislative office;
- 5 (3) By the legislative reference bureau;
- 6 (4) By any compilation commission that may be constituted
7 from time to time;
- 8 (5) By the real estate commission for any action involving
9 the real estate recovery fund;
- 10 (6) By the contractors license board for any action
11 involving the contractors recovery fund;
- 12 (7) By the office of Hawaiian affairs;
- 13 (8) By the department of commerce and consumer affairs for
14 the enforcement of violations of chapters 480 and
15 485A;
- 16 (9) As grand jury counsel;
- 17 (10) By the Hawaii health systems corporation, or its
18 regional system boards, or any of their facilities;
- 19 (11) By the auditor;
- 20 (12) By the office of ombudsman;
- 21 (13) By the insurance division;



- 1 (14) By the University of Hawaii;
- 2 (15) By the Kahoolawe island reserve commission;
- 3 (16) By the division of consumer advocacy;
- 4 (17) By the office of elections;
- 5 (18) By the campaign spending commission;
- 6 (19) By the Hawaii tourism authority, as provided in
- 7 section 201B-2.5;
- 8 (20) By the division of financial institutions;
- 9 (21) By the office of information practices;
- 10 (22) By the school facilities authority;
- 11 (23) By the Mauna Kea stewardship and oversight authority;
- 12 [~~or~~]
- 13 (24) By the Hawaiian homes commission; provided that:
- 14 (A) The Hawaiian homes commission may use the
- 15 services of the attorney general as needed; and
- 16 (B) Legal fees owed to the independent legal counsel
- 17 shall be paid by the Hawaiian homes commission
- 18 with general funds appropriated by the
- 19 legislature; or
- 20 [~~(24)~~] (25) By a department, if the attorney general, for
- 21 reasons deemed by the attorney general to be good and



1 sufficient, declines to employ or retain an attorney
2 for a department; provided that the governor waives
3 the provision of this section."

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

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

17 SECTION 3. In accordance with section 9 of article VII, of
18 the Constitution of the State of Hawaii and sections 37-91 and
19 37-93, Hawaii Revised Statutes, the legislature has determined
20 that the appropriation contained in this Act will cause the
21 state general fund expenditure ceiling for fiscal year 2024-2025



H.B. NO. 2763

1 to be exceeded by \$ _____, or _____ per cent. The reasons
 2 for exceeding the general fund expenditure ceiling are that the
 3 appropriation made in this Act is necessary to serve the public
 4 interest and to meet the need provided for by this Act.

5 SECTION 4. There is appropriated out of the general
 6 revenues of the State of Hawaii the sum of \$ _____ or so
 7 much thereof as may be necessary for fiscal year 2024-2025 for
 8 the retention of independent legal counsel by the Hawaiian homes
 9 commission.

10 The sum appropriated shall be expended by the Hawaiian
 11 homes commission for the purposes of this Act.

12 SECTION 5. Statutory material to be repealed is bracketed
 13 and stricken. New statutory material is underscored.

14 SECTION 6. This Act shall take effect on July 1, 2024.

15

INTRODUCED BY:

DO HH

JAN 24 2024



H.B. NO. 2763

Report Title:

HHC; AG; Independent Legal Counsel; Appropriation; General Fund Expenditure Ceiling Exceeded

Description:

Allows the Hawaiian Homes Commission to retain independent legal counsel. Authorizes the Hawaiian Homes Commission to use the services of the Attorney General as needed. Provides that funds owed to independent legal counsel shall be paid by the Hawaiian Homes Commission with general funds appropriated by the legislature. Declares that the appropriation exceeds the state general fund expenditure ceiling for 2024-2025. Appropriates moneys.

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

