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# A BILL FOR AN ACT

RELATING TO INDEPENDENT LEGAL COUNSEL.

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

11           The legislature further finds that given this unique and  
12 significant history, the Hawaiian homes commission should be  
13 allowed to retain independent legal counsel, while also  
14 utilizing the services of the attorney general as needed.

15           The purpose of this Act is to authorize the Hawaiian homes  
16 commission to retain independent legal counsel, with any legal



1 fees owed to be paid by the State, and also utilize the services  
2 of the attorney general as needed.

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

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

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

13 (1) By the public utilities commission, ~~[the]~~ labor and  
14 industrial relations appeals board, and ~~[the]~~ Hawaii  
15 labor relations board;

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



- 1 president of the senate jointly, and the attorney  
2 general declines to provide [~~such~~] the representation  
3 on the grounds of conflict of interest, the attorney  
4 general shall retain an attorney for the court,  
5 judicial[~~7~~] office, or legislative office, subject to  
6 approval by the court, judicial[~~7~~] office, or  
7 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~~] 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;
- 11 (20) By the division of financial institutions;
- 12 (21) By the office of information practices;
- 13 (22) By the school facilities authority;
- 14 (23) By the Mauna Kea stewardship and oversight authority;
- 15 [~~or~~]
- 16 (24) By the Hawaiian homes commission; provided that:
- 17 (A) The Hawaiian homes commission may use the
- 18 services of the attorney general as needed; and
- 19 (B) Legal fees owed to independent counsel shall be
- 20 paid by the State; or



1        [~~(24)~~] (25) By a department, if the attorney general, for  
 2                    reasons deemed by the attorney general to be good and  
 3                    sufficient, declines to employ or retain an attorney  
 4                    for a department; provided further that the governor  
 5                    waives the provision of this section."

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

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

19            SECTION 3. Statutory material to be repealed is bracketed  
 20 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect on July 1, 3000.



**Report Title:**

Hawaiian Homes Commission; Independent Legal Counsel; Attorney General

**Description:**

Authorizes the Hawaiian Homes Commission to retain independent legal counsel, with any legal fees owed to be paid by the State, and also use the services of the Attorney General as needed. Effective 7/1/3000. (HD1)

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

