

ACT 302

H.B. NO. 1758

A Bill for an Act Relating to the Transfer of Programs and Organizational Segments in the State Government.

Be It Enacted by the Legislature of the State of Hawaii:

PART I
FINDINGS AND PURPOSE

SECTION 1. Findings and Purpose. Since the last major reorganization of the State government occurred in 1959, the State has experienced changes in societal attitudes, values, and emphasis, as well as rapid developments in technology. These changes have produced new issues requiring new programs and new approaches for their resolution.

The State government has sought to meet these new issues and to implement new programs and approaches within the framework of its present structure. However, programs which essentially are intended to meet common needs have been dispersed among several agencies, and they have not received the coordination they require. Further, Article V, Section 6, of the Hawaii State Constitution mandates that all executive and administrative offices, departments, and instrumentalities of the State government and their respective powers and duties, shall be grouped within the principal departments according to common purposes and related functions.

It is the purpose of this Act to transfer certain programs and organizational segments among the existing 17 departments of the Executive Branch of the State government without altering the basic organizational structures of these departments. This reassignment of programs and organizational segments would:

- (1) Comply with requirements of the Hawaii State Constitution;
- (2) Improve the efficiency and effectiveness of the operations of the Executive Branch;
- (3) Improve the delivery of services to the people;
- (4) Fix responsibility and accountability for successfully carrying out programs, policies, and priorities of the administration;
- (5) Improve responsiveness to the needs of the people of Hawaii;
- (6) Group programs more homogeneously to more closely relate them with the stated mission of associated departments; and
- (7) Enable administratively assigned boards and commissions to have more voice in formulating policies and priorities.

This Act provides for the orderly transfer of programs, organizational segments, personnel, funds, records, and equipment among the existing 17 departments of the Executive Branch of the State government. This Act is not intended to increase, decrease, or otherwise change the statutory powers of departments and agencies unless specifically expressed.

PART II
TRANSFER OF PROGRAMS AND ORGANIZATIONAL SEGMENTS

SECTION 2. The following programs and organizational segments are transferred as follows:

<u>From</u>	<u>To</u>	<u>Current Program No.</u>	<u>Citation (Hawaii Revised Statutes)</u>
	<u>Accounting & General Services</u>		
Budget and Finance	State Foundation on Culture and the Arts, for administrative purposes.	BUF 881	Sec. 9-2
Budget and Finance	Stadium Authority, for administrative purposes	BUF 889	Sec. 109-1
	<u>Attorney General</u>		
Gover- nor's Office	State Law Enforcement Planning Agency, for administrative purposes.	GOV 893	Sec. 844-1
	<u>Budget and Finance</u>		
Gover- nor's Office	Office of the Public Defender, for administrative purposes.	GOV 821	Sec. 802-8
	<u>Health</u>		
Gover- nor's Office	Commission on the Handicapped, for administrative purposes.	GOV 803	Sec. 348E-2
Gover- nor's Office	Office of Environmental Quality Control, for administrative purposes.	GOV 401	Sec. 341-3
Gover- nor's Office	Environmental Quality Commission, for administrative purposes.	GOV 401	Sec. 343-3†

†Renumbered as 343-4 by L 1979, c 197, §1(4).

<u>From</u>	<u>To</u>	<u>Current Program No.</u>	<u>Citation (Hawaii Revised Statutes)</u>
	<u>Labor and Industrial Relations</u>		
Governor's Office	Commission on Manpower and Full Employment, for administrative purposes.	GOV 803	Sec. 202-5
	<u>Planning and Economic Development</u>		
Governor's Office	Commission on the Year 2000, for administrative purposes.	GOV 102	Sec. 221-1
Governor's Office	State Commission on Population and the Hawaiian Future, for administrative purposes.	GOV 102	Sec. 224-2
Governor's Office	Marine Affairs Coordi- nator, for administra- tive purposes.	GOV 109	Sec. 218-2
	<u>Regulatory Agencies</u>		
Governor's Office	Office of Consumer Protection, for administrative purposes.	GOV 110	Sec. 487-2
Labor and Indus- trial Relations	Commercial Employment Agencies Program	LBR 152	Chap. 373
Labor and Indus- trial Relations	Factory-Built Housing Program	LBR 902	Chap. 359L
	<u>Social Services and Housing</u>		
Governor's Office	Intake Service Center, for administrative purposes.	GOV 894	1) Sec. 353-1.3 2) Sec. 353-1.4 3) Sec. 353-1.5
Budget and Finance	Commission on the Status of Women, for administra- tive purposes.	BUF 888	Sec. 367-2

<u>From</u>	<u>To</u>	<u>Current Program No.</u>	<u>Citation (Hawaii Revised Statutes)</u>
	<u>University of Hawaii (UOH 905)</u>		
Governor's Office	Western Interstate Commission for Higher Education, for administrative purposes.	GOV 807	Sec. 310-4
	<u>Land and Natural Resources</u>		
Budget and Finance	Hawaii Foundation for History and the Humanities, for administrative purposes.	BUF 802	Sec. 6-16.1

PART III
**TRANSFER OF PROGRAMS, ORGANIZATIONAL SEGMENTS,
PERSONNEL, EQUIPMENT, RECORDS, FUNDS, ETC., AND
SCHEDULE OF IMPLEMENTATION**

SECTION 3. Rights and Obligations of Succeeding Department. The department into which a program or organizational segment is transferred by this Act ("succeeding department") shall assume all of the rights and powers exercised, and all of the duties and obligations incurred by the office or department from which the program or organizational segment is transferred ("former department") in the administration of the programs and organization segments transferred, whether such powers, duties and obligations are mentioned in or granted by any law, contract, or other document. All references in any such law, contract, or document to the former department in connection with the programs and organizational segments transferred shall apply to the succeeding department as if the latter were named in such law, contract, or document in place of the former department.

SECTION 4. Transfer of Personnel. The transfer of programs and organizational segments listed in Part II of this Act shall include all personnel, the major portion of whose functions and duties is in the transferred programs and organization segments.

No employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act; provided that subsequent changes in status may be made pursuant to Chapters 76 and 77, Hawaii Revised Statutes.

Any employee who, prior to this Act, was exempted from civil service and who may be transferred as a consequence of this Act, shall continue to retain the employee's exempt status and shall not be appointed to a civil service position because of this Act. Employees who may be transferred by this Act and who are receiving

entitlements, benefits, or privileges in accordance with chapter 77, but not chapter 76 of the Hawaii Revised Statutes, shall continue to receive only those entitlements, benefits, or privileges received under chapter 77, Hawaii Revised Statutes, after such transfer.

SECTION 5. Transfer of Records, Equipment, Appropriation, Authorization, and Other Property. All records, equipment, files, supplies, contracts, books, papers, documents, maps, appropriations, authorizations, and other property heretofore made, used, acquired, or held by the department, office, or agency in the exercise of the programs transferred or by the organizational segment transferred by this Act shall be transferred under the direction of the governor to the department into which the program or organizational segment is transferred.

SECTION 6. Prosecutions and Civil Actions. No offense committed and no penalty or forfeiture incurred under the law shall be affected by Part II of this Act, provided, that whenever any punishment, penalty, or forfeiture is mitigated by any provision of this Act, such provision may be extended and applied to any judgment pronounced after the passage of this Act. No suit or prosecution pending at the time this Act takes effect shall be affected by this Act. The right of any administrative officer to institute proceedings for prosecution for an offense or an action to recover a penalty or forfeiture shall henceforth be vested in the head of the department or some person designated by the head of the department or as may be directed by law.

SECTION 7. Appeals. The right of appeal from administrative actions or determinations as provided by law shall not be impaired by Part II of this Act.

Except as otherwise provided by this Act, wherever a right of appeal from administrative actions or determinations is provided by law to or from any officer, board, department, bureau, commission, administrative agency, or instrumentality of the state which, or any of the programs of which, is transferred by this Act to another department, such right of appeal shall lie to or from the department, or the subdivision, bureau, or officer of the department to which such transfer is made. Such right of appeal shall exist to the same extent and in accordance with the procedures as immediately prior to the effective date of this Act.

If the provisions of the preceding paragraph relating to appeals cannot be effected by reason of the abolishment, splitting, or shifting of functions or otherwise, the right of appeals shall lie to the circuit court of the State pursuant to the Hawaii Rules of Civil Procedure.

SECTION 8. Federal Aid, Bond Obligations; Not Impaired. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the state or any agency thereof to the holders of any bond issued by the state or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor is authorized and empowered to modify the strict provisions of Part II of this Act, but shall promptly report any such modification with his reasons therefor to the legislature at its next session thereafter for review by the legislature.

SECTION 9. Continuity of Administration. Notwithstanding anything in this Act to the contrary, the transfer of any officer, board, bureau, commission, administrative agency, or instrumentality of the State, or of any program or organizational segment of a department, provided by Part II of this Act, shall be accomplished

within the time specified in Section 10 by executive order or orders issued by the governor.

Until so transferred, each officer, board, bureau, commission, administrative agency, or instrumentality of the State shall continue to discharge its duties and functions with the same personnel and to the same extent as immediately prior to the effective date of this Act.

SECTION 10. Schedule for Transfer of Programs and Organizational Segments. The transfer as provided for by Part II of this Act shall be accomplished in the following manner:

- (1) No later than ten days following the effective date of this Act the governor shall commence:
 - (A) The reassignment, by executive order, of the various programs and organizational segments as provided for by this Act; and
 - (B) By executive order, the transfer of personnel, records, appropriations, authorizations, equipment, etc.; the revision of any job description, and any other detailed matter related to the internal operation of the department.

The governor shall submit to the legislature no later than twenty days before the Regular Session of 1981 a progress report relating to the implementation of this transfer. This transfer shall be completed by December 31, 1980.

SECTION 11. The revisor of statutes may incorporate into the Hawaii Revised Statutes, any of the provisions contained in this Act. The revisor of statutes shall substitute the appropriate departmental reference in all existing statutes where a program or organizational segment is transferred from one department to another department if such existing statutory language has not been amended by this Act.

PART IV AMENDMENT OF CONFLICTING LAWS, SEVERABILITY, APPROPRIATION, EFFECTIVE DATE

SECTION 12. Amendment of Conflicting Laws. All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform herewith. All Acts passed during this Regular Session 1980, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless such Acts specifically provide that the Act relating to the "Transfer of Programs and Organizational Segments in the Executive Branch" is being amended.

SECTION 13. Construction; separability. Part II of this Act shall be liberally construed in order to accomplish the purposes set forth in Section 1. Any portion of this judicially declared to be invalid shall not affect the remaining portions.

SECTION 14. Effective date. This Act shall take effect upon its approval.

(Approved June 18, 1980.)