

A Bill for an Act Relating to Tourism.

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

SECTION 1. The legislature finds that the visitor industry brings millions of tourists into the State each year. It has been regarded as the most important sector of Hawaii's economy, providing approximately one-fourth of all civilian jobs in the State and generating millions of dollars in revenue annually. Historically, tourism has not been given the priority it clearly deserves from the government. In light of the State's substantial dependence on tourism, it is extremely important that the government coordinate and plan tourism growth and development in a manner consistent with the economic interests of the State.

The purpose of this Act is to establish an office of tourism, headed by a deputy director of tourism, within the department of business and economic development, which will also be renamed the department of business, economic development, and tourism. The deputy director shall be authorized to contract with the Hawaii visitors bureau and other visitor industry organizations. Responsibility for the establishment of a visitor impact management system and the plan of an integrated and coordinated development of the tourism industry will be the responsibility of the office of tourism. In addition, this Act establishes a tourism marketing council.

SECTION 2. In accordance with Section 9 of Article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriation contained in this Act will cause the state general fund expenditure ceiling for fiscal year 1990-1991 to be exceeded by \$161,000 or 0.0063 per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriation made in this Act is necessary to serve the public interest and to meet the need provided for by this Act.

SECTION 3. Chapter 201, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

#### "PART . TOURISM

**§201- Definitions.** For the purposes of this chapter:

"Agency" means any agency, department, authority, board, commission, the University of Hawaii, or any other unit of the State or its political subdivisions.

"Department" means the department of business, economic development, and tourism.

"Director" means the director of business, economic development, and tourism.

"Deputy director of tourism" means the deputy director of business, economic development, and tourism in charge of the office of tourism.

"Office" means the office of tourism.

"Council" means the Hawaii tourism marketing council.

**§201- Office of tourism; deputy director of tourism; staff.** (a) There is established an office of tourism within the department of business, economic development, and tourism.

(b) This office shall be headed by a deputy director.

**§201- Powers and duties of the office.** The office shall be responsible for:

- (1) Promoting, marketing, and developing the tourism industry in the State;
- (2) Developing, coordinating, and implementing long-range state policies and directions for tourism and related activities including the updating of the state tourism functional plan;
- (3) Coordinating all agencies and advising the private sector in the development of tourism-related activities and resources;
- (4) Arranging for the conduct of research through contractual services with the University of Hawaii or any agency or other qualified persons concerning social, economic, and environmental aspects of tourism development in the State;
- (5) Providing technical or other assistance to agencies and private industry upon request;
- (6) Establishing a public information and educational program to inform the public of tourism and tourism-related problems;
- (7) Encouraging the development of educational, training, and career counseling programs in tourism;
- (8) Establishing a program to monitor and investigate complaints about problems resulting directly or indirectly from the tourism industry and taking appropriate action as needed;
- (9) Developing and implementing the state tourism marketing plan;
- (10) Performing other necessary or desirable functions to facilitate the intent of this chapter; and
- (11) Performing other functions required or authorized by law.

**§201- Hawaii tourism marketing council; establishment; appointment, number, and term of members; duties.** (a) There is established within the department, for administrative purposes, an advisory council to be known as the Hawaii tourism marketing council which shall review and make recommendations on matters relating to the state tourism marketing and promotion programs and activities. The council shall be composed of nine voting members and four ex-officio nonvoting members. The voting members shall be appointed in the manner provided in section 26-34, except as provided otherwise in this section. The president of the Hawaii Visitors Bureau, president of the Hawaii hotel association, president of the Hawaii resort developers' conference, and the deputy director of tourism, or their respective designated representatives, shall serve as ex-officio, nonvoting members.

(b) The voting members shall be appointed by the governor for four years, except that the terms of the members first appointed shall be for two and four years, respectively, as designated by the governor at the time of appointment. The governor shall designate a voting member to be chairperson of the council. Each voting member shall hold office until the member's successor is appointed and qualified. Section 26-34 shall be applicable insofar as it relates to the number of terms and consecutive number of years a member may serve on the council.

(c) The voting members on the council shall be comprised of one representative each from the city and county of Honolulu and the counties of Hawaii, Kauai, and Maui, and five at-large members.

(d) In appointing members, the governor shall select persons who have had experience in tourism marketing and promotion, or experience in marketing and promotion in the hotel industry or the airline industry. The members of the

council shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(e) The council shall meet semi-annually. The council may meet more frequently at the discretion of the deputy director in response to changing market needs.

(f) The council shall annually review, evaluate, and make recommendations to the department on the State's tourism marketing and promotion programs and activities. Copies of the council's findings and recommendations shall be furnished to the governor and legislature. The review and recommendations by the council shall include but not be limited to:

- (1) The biennial tourism marketing plan;
- (2) Implementation of the biennial tourism marketing plan; and
- (3) Inventory and analysis of visitor satisfaction and complaints.

**§201- Contract with the Hawaii visitors bureau and other organizations.**

(a) Any law to the contrary notwithstanding, the office may contract with the Hawaii visitors bureau or any other visitor industry organization to perform tourism promotion, marketing, and development.

(b) The office shall review annually the expenditure of public funds by the Hawaii visitors bureau or any other visitor industry organization and shall make recommendations necessary to ensure the effective use of the funds for the development of tourism. The office shall also prepare annually a report of expenditures, including descriptions and evaluations of programs funded, together with any recommendations the deputy director may make and shall submit the report to the legislature as part of the annual report required under section 201-

**§201- Visitor impact management system.** The office shall be responsible for establishing a system to:

- (1) Monitor the impact of tourism development and activities on the economic, social, and physical environment of the residents of Hawaii;
- (2) Identify those current and emerging conditions that are having or are likely to have negative effects on residents;
- (3) Survey and analyze the specific concerns of communities with high tourism impact;
- (4) Inform appropriate agencies and private parties of the negative effects;
- (5) Advocate policies or solutions on behalf of residents, whenever possible, to ameliorate, avoid, or prevent undesirable effects; and
- (6) Bring major tourism impact issues to the attention of appropriate legislative bodies.

The office shall be responsible for preparing an annual report that describes the system's application in the preceding year, including the conditions and negative effects identified, the solutions recommended or pursued by responsible agencies or parties, and the results obtained. The annual report shall be submitted to the legislature as part of the annual report required under section 201-

**§201- Integration and development of the tourism industry.** The office shall be responsible for planning for the integrated and coordinated development and expansion of the tourism industry of the State. The office shall investigate and recommend to appropriate governmental officers, agencies, legislative committees, and private groups ways and means of coordinating promotional activities on behalf of tourism with the development of recreational

and other facilities for improved tourism development. The office shall also review the expenditure of governmental funds for tourism-related activities and shall prepare an annual report on the expenditures, together with any recommendations the office may have. The annual report shall be submitted to the legislature as part of the annual report required under section 201-

**§201- Annual report.** At least twenty days prior to the convening of each regular session, the director shall submit a report to the legislature on the programs and activities conducted by the office in the immediate prior fiscal year.

**§201- Rules.** The department shall adopt rules in accordance with chapter 91 for the purposes of this part.”

SECTION 4. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

**“§76-16 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the State now existing or hereafter established and embraces all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard that are required by state or federal laws or regulations or orders of the national guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the position does not exceed one year, but before any person may be employed to render the temporary service, the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court

- and each judge of the intermediate appellate court, and one law clerk for each judge of the circuit court and the administrative judge of the district court of the first circuit (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); sheriff, first deputy sheriff, and second deputy sheriff; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
  - (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, the special assistant to the state librarian, one secretary for the special assistant to the state librarian, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
  - (12) Employees engaged in special, research, or demonstration projects approved by the governor;
  - (13) Positions filled by inmates, kokuas, patients of state institutions, persons with severe physical or mental handicaps participating on the work experience training programs, and students and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
  - (14) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
  - (15) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
  - (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, Article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports offices<sup>1</sup> or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of human services either in charge of welfare or other functions within the department as may be assigned by the director of human services; four additional deputies in the

department of health in charge of administration or other functions within the department as may be assigned by the director of health with the approval of the governor; one additional deputy in the department of [business and economic development] business, economic development, and tourism to perform the duties assigned by the director of [business and economic development] business, economic development, and tourism and approved by the governor; one additional deputy in the department of business, economic development, and tourism in charge of the office of tourism and other tourism-related activities as may be assigned by the director of business, economic development and tourism, with the approval of the governor; one additional deputy in the department of budget and finance to perform the duties assigned by the director of finance and approved by the governor; one additional deputy within the department of land and natural resources to perform the duties to be assigned by the chairperson of the board of land and natural resources; one additional deputy in the department of taxation to perform the duties assigned by the director of taxation and approved by the governor; and an administrative assistant to the superintendent of education;

- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii housing authority; provided that no more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii which require hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions; and
- (24) One public high school student to be selected by the Hawaii state student council as a nonvoting member on the board of education as authorized by the State Constitution.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 5. Section 203-5, Hawaii Revised Statutes, is amended to read as follows:

**“[[§203-5]] Biennial tourism marketing plan; procedures for submission and evaluation of proposals; measures of effectiveness; report.** (a) The [department of business and economic development] office of tourism shall [develop] be responsible for developing a biennial tourism marketing plan to be submitted with the executive budget request that includes the following:

- (1) Identification and evaluation of current and future tourism needs for the different regions of the State;
- (2) Goals and objectives in accordance with identified needs;
- (3) Statewide promotional efforts and programs including those which may exceed the duration of the biennium;
- (4) Target markets; and
- (5) Measures of effectiveness for its promotional programs.

(b) The [department] office of tourism shall [establish] be responsible for establishing procedures for the selection and evaluation of statewide tourism promotion projects. The procedures shall include submission of proposals to the [department] office and the council prior to disbursement of any tourism promotion funds, and a final report at the completion of the project to be submitted by the funded entity to the [department] office. All statewide tourism promotion contracts, including the Hawaii Visitors Bureau, shall be subject to this subsection.

(c) In accordance with subsection (a), the [department] office shall [develop] be responsible for developing measures of effectiveness to assess the overall benefits and effectiveness of the marketing plan and include documentation of the directly attributable benefits of the plan to the following:

- (1) Hawaii's tourism industry;
- (2) Employment in Hawaii;
- (3) State taxes; and
- (4) The State's lesser known and underutilized destinations.

(d) The [department] office shall submit annual reports regarding the status and execution of the marketing plan and the effectiveness of the promotions to the legislature twenty days prior to the convening of the regular session in each year.”

SECTION 6. Section 201-13.5, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 201-13.6, Hawaii Revised Statutes, is repealed.

SECTION 8. Chapters 26, 48, 189, 201, 203, 205, 208, 209, 210, 211, 211E, 213, 227, 228, and 486E, and sections 153-4.5, 164-1, 171-42, 174C-5, 188E-1, 196-1, 201D-1, 201E-3, 206E-3, 206J-4, 206M-2, 206P-3, 206X-3, 209E-2, 212-10, 213E-2, 226-53, 246-12, 279A-4, 279E-2, 307-2, 342N-34, 354-2, 373F-3, 394-9, 420-2, and 445-112, Hawaii Revised Statutes, are amended by replacing every reference to “director of business and economic development” or “director of the department of business and economic development” or like terms with “director of business, economic development, and tourism” and by replacing every reference to “department of business and economic development” or like terms with “department of business, economic development, and tourism”, as the context requires.

SECTION 9. All rights, powers, functions, and duties of the tourism branch of the department of business and economic development relating to the promotion, marketing, and development of tourism and the preparation of the comprehensive open space plan are transferred to the office of tourism of the new department of business, economic development, and tourism.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or 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, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

In the event that an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the director or the governor.

**SECTION 10.** All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the tourism branch of the department of business and economic development relating to the functions transferred to the office of tourism shall be transferred with the functions to which they relate.

**SECTION 11.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$161,000, or so much thereof as may be necessary for fiscal year 1990-1991, for establishment and operation of an office of tourism and a Hawaii tourism marketing council and for otherwise accomplishing the purposes of this Act.

The sum appropriated shall be expended by the department of business, economic development, and tourism.

**SECTION 12.** Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

**SECTION 13.** This Act shall take effect on July 1, 1990.

(Approved June 26, 1990.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.