

ACT 124

H.B. NO. 258

A Bill for an Act Relating to the Convention Center.

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

SECTION 1. The legislature finds that the convention center capital and operations special fund under section 206X-10.5, was established to serve as the depository of funds for the payment of debt service on construction as well as funds for operation. Moneys for the two uses are currently commingled in a single account. Although section 237D-6.5 earmarks a portion of the transient accommodations tax for the payment of debt service and construction, the capital and operations special fund currently lacks sufficient reserves to pay for the operating costs of the center. Because of the potential to spend funds earmarked for other uses, the legislature finds that the special fund should be separated into two funds. This Act separates the capital and operations special fund into two distinct funds—one for capital expenses and the other for operational costs.

The legislature further finds that the Hawaii convention center is scheduled to open in mid-1998. While the facility promises to provide economic benefits to the State as a whole, the project also poses many special financial challenges. The financial future of the State dictates that revenue generating options must be proactively and vigorously explored. To this end, the legislature believes that a privatization plan should be formulated for the State to consider prior to the opening of the convention center.

SECTION 2. Chapter 206X, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§206X- Convention center operations special fund. (a) There is established in the state treasury the convention center operations special fund, into which shall be deposited:

- (1) All revenues or moneys derived from the operations or use of the convention center;
- (2) All or a portion of all revenues derived from the operation of parking and garage facilities and other concessions at the convention center; and
- (3) Appropriations by the legislature.

(b) In addition to the powers of the authority specified in section 206X-4, the authority may:

- (1) Adopt rules in accordance with chapter 91, to define the term “revenues or moneys derived from the operations or use of the convention center”; and
- (2) Do any and all things deemed necessary to administer the convention center operations special fund.

(c) Moneys in the convention center operations special fund may be placed in interest-bearing accounts or otherwise invested by the authority until such time as the moneys may be needed. All interest accruing from the investment of these moneys shall be credited to the convention center operations special fund.

(d) Moneys in the convention center operations special fund shall be used by the authority for the operation, maintenance, and improvement of the convention center and any public facilities related thereto.”

SECTION 3. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

“§36-27 Transfers from special funds for central service expenses.

Except as provided in this section, and notwithstanding any other law to the contrary, from time to time the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special summer school and intersession fund under section 302A-1310;
- (2) School cafeteria special funds of the community colleges and the department of education;
- (3) Special funds of the student housing, summer session, college of continuing education and community service, campus center, and bookstores of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center capital special fund under section 206X-10.5 and the convention center operations special fund[;] under section 206X- ;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Spouse and child abuse special account under section 346-7.5;
- (11) Spouse and child abuse special account under section 601-3.6;
- (12) Funds of the employees’ retirement system created by section 88-109;
- (13) Unemployment compensation fund established under section 383-121;
- (14) Hawaii hurricane relief fund established under chapter 431P;
- (15) The University of Hawaii tuition and fees special fund; and
- (16) Division of community hospitals’ special funds,

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.”

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

“(a) Each special fund, except the:

- (1) Transportation use special fund established by section 261D-1;
- (2) Special summer school and intersession fund under section 302A-1310;
- (3) School cafeteria special funds of the community colleges and the department of education;
- (4) Special funds of the student housing, summer session, college of continuing education and community service, campus center, and bookstores of the University of Hawaii;

- (5) State educational facilities improvement special fund;
- (6) Special funds established by section 206E-6;
- (7) Aloha Tower fund created by section 206J-17;
- (8) Spouse and child abuse special account under section 346-7.5;
- (9) Spouse and child abuse special account under section 601-3.6;
- (10) Funds of the employees' retirement system created by section 88-109;
- (11) Unemployment compensation fund established under section 383-121;
- (12) Hawaii hurricane relief fund established under chapter 431P;
- (13) Convention center capital [and operations] special fund established under section 206X-10.5[;] and the convention center operations special fund established under section 206X- ;
- (14) The University of Hawaii tuition and fees special fund; and
- (15) Division of community hospitals' special funds,

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

SECTION 5. Section 206X-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) As a further condition and consideration of the right to develop the real property within the convention center district under the agreement and pursuant to this chapter, the developer shall pay a reasonable sum determined by the authority as contribution for the payment of costs relating to:

- (1) The temporary or permanent relocation of existing licensees and lessees, if any, who are displaced because of the development within the convention center district pursuant to the convention center development plan by the developer; or
- (2) Settlement payments in lieu of payments provided under paragraph (1) to existing licensees and lessees, if any, who are displaced by the developer because of the development within the convention center district pursuant to the convention center development plan;

provided that each displaced licensee or lessee shall have the option to select either relocation or a settlement payment.

Upon the approval by the authority of the relocation plan, which shall be prepared and submitted by the developer to the authority, the developer shall deliver to the authority for deposit into the convention center capital [and operations] special fund the sum determined by the authority in the form of a certified check, an irrevocable letter of credit, or surety bond. The sum determined by the authority shall be used for the implementation of the relocation plan; provided that the sum and all interest accrued thereon shall be refunded to the developer in the event this chapter expires and becomes void.

The relocation plan shall include an agreement by the developer to give every displaced licensee or lessee who does not elect to receive a settlement payment under paragraph (2) an unassignable right of first refusal of any license or lease of space within the convention center district developed and offered for those activities similar in size and nature to the business conducted by the licensee or lessee at the time of displacement, unless this right is waived by any licensee or lessee.

The authority shall establish a task force to assist in the implementation of the relocation plan. The task force shall include persons representing agencies, organizations, government, and private interests.”

SECTION 6. Section 206X-10.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§206X-10.5]]~~ **Convention center capital [and operations] special fund.** (a) There is established in the state treasury the convention center capital [and operations] special fund, into which shall be deposited:

- (1) A portion of the revenues from the transient accommodations tax, as provided by section 237D-6.5;
- (2) All revenues derived from the operations of the convention center;
- (3) All or a portion of all revenues derived from the operation of parking and garage facilities and other concessions at the convention center;
- (4) ~~(2)~~ All proceeds from revenue bonds issued by the authority; and
- (5) ~~(3)~~ Appropriations by the legislature to the convention center capital [and operations] special fund.

(b) In addition to the powers of the authority specified in section 206X-4, the authority may[:

- (1) Define, through rules adopted in accordance with chapter 91, the term “revenues derived from the operations of the convention center” or like terms; and
- (2) Do] do any and all things deemed necessary to administer the convention center capital [and operations] special fund.

(c) Moneys in the convention center capital [and operations] special fund may be placed in interest-bearing accounts or otherwise invested by the authority until such time as the moneys may be needed. All interest accruing from the investment of these moneys shall be credited to the convention center capital [and operations] special fund.

(d) Moneys in the convention center capital [and operations] special fund shall be used by the authority for the following purposes:

- (1) Planning, design, improvement, construction, land acquisition, equipment, and furnishing necessary for the development or maintenance of a convention center;
- (2) Constructing[, operating, maintaining, and improving] the convention center and any public facilities related thereto;
- (3) Payment of debt service on revenue bonds issued by the authority for purposes of the convention center, establishment of debt service and other reserves deemed necessary by the authority or the State, and reimbursement of the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for purposes of the convention center; and
- (4) Any other purpose deemed necessary by the authority for the purpose of planning, improving, and developing[, operating, and maintaining] the convention center facility.”

SECTION 7. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) [For the fiscal year beginning July 1, 1990, and for each fiscal year thereafter, until June 30, 1994, revenues collected under this chapter shall be distributed as follows: five per cent of the revenues collected under this chapter shall be retained by the State. Of the remainder, Kauai county shall receive 14.5 per cent; Hawaii county shall receive 18.6 per cent; city and county of Honolulu shall receive 44.1 per cent; and Maui county shall receive 22.8 per cent.]

For the fiscal year beginning July 1, 1994, and for each fiscal year thereafter, revenues collected under this chapter shall be distributed as follows:

- (1) One-sixth of the revenues collected under this chapter shall be deposited into the convention center capital [and operations] special fund[;] established under section 206X-10.5;

- (2) Of the remaining revenues, five per cent shall be retained by the State; and
- (3) Of the remainder, Kauai county shall receive 14.5 per cent; Hawaii county shall receive 18.6 per cent; city and county of Honolulu shall receive 44.1 per cent; and Maui county shall receive 22.8 per cent.

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

SECTION 8. The director of finance shall transfer to the credit of the convention center operations special fund on the effective date of this Act, an unexpended or unencumbered amount to be determined by the director of finance in the convention center capital and operations special fund scheduled for repeal on the effective date of this Act. The director of finance shall subsequently transfer to the credit of the convention center capital special fund, the remaining unexpended or unencumbered balances remaining in the convention center capital and operations special fund.

SECTION 9. The director of finance shall determine and assign or transfer to either the convention center operations special fund or the convention center capital special fund any encumbrances or liabilities currently accrued by the convention center capital and operations special fund scheduled for repeal on the effective date of this Act.

SECTION 10. The department of business, economic development, and tourism shall work in cooperation with the department of budget and finance and the convention center authority to formulate a convention center privatization plan that shall address issues including but not be limited to:

- (1) Identifying all financial obligations of the State relating to the convention center;
- (2) The impact on the State’s bond obligations for the construction of the convention center;
- (3) A determination as to whether the privatization of the convention center is in the best interest of the State; and
- (4) Any other legal or financial requirements necessary to to effectuate the privatization of the convention center.

The department of business, economic development, and tourism shall submit a report to the legislature containing its findings and recommendations on the convention center privatization plan no later than twenty days prior to the convening of the 1998 regular session.

For the purposes of this Act, “privatization” means the transfer of ownership, control, use, or management of a public facility, in whole or in part, from the State to a private person by means of sale, lease, lease with option to purchase, or by public concession.

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 12. This Act shall take effect on July 1, 1997.

(Approved June 16, 1997.)

Note

1. Edited pursuant to HRS §23G-16.5.