

ACT 63

H.B. NO. 154

A Bill for an Act Relating to Public Television.

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

SECTION 1. The purpose of this Act is to provide for the orderly transfer of the licenses, assets, responsibilities, and functions of the Hawaii public broadcasting authority, also commonly known as Hawaii Public Television, to the Hawaii Public Television Foundation, a private, not-for-profit organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The transfer is contingent upon the approval of the Federal Communications Commission. This transfer represents a significant step in the direction of a redefined relationship between the State and public television in Hawaii.

The legislature recognizes that the transfer is necessary as the result of significant reductions in state and federal funding of the Hawaii public broadcasting authority. At the instruction of the 1996 legislature, the Hawaii public broadcasting authority developed a strategic plan that was presented at the 1997 regular session. The purpose of this plan was to develop a blueprint that demonstrated how public television could make the transition to a community-based system.

The plan created a new relationship with the State to preserve the important role Hawaii Public Television plays in creating and broadcasting educational programs for the department of education, the University of Hawaii, and other educational institutions. The plan also enabled Hawaii Public Television to innovate and efficiently pursue its role in broadcasting cultural and public affairs programs that enhance the quality of life in the community.

In supporting the educational, cultural, and historical contributions of non-commercial public television programming, it remains essential to ensure the continued creative and financial health of public television in Hawaii, and its ability to operate in a rapidly changing and advancing technical environment.

The strategic plan submitted by Hawaii public broadcasting authority provided for the establishment of a foundation, initially for fundraising and eventually to operate the public television network in Hawaii. The Hawaii Public Television Foundation was established in December, 1997, with a board of directors of twenty-five community leaders, and will be prepared to assume all responsibilities of management and operation of the public television system in Hawaii, effective July 1, 2000.

SECTION 2. (a) Notwithstanding any law to the contrary, including chapter 103D, parts XI and XII, Hawaii Revised Statutes, the Hawaii public broadcasting authority shall transfer to the Hawaii Public Television Foundation on July 1, 2000, the following:

- (1) All records, equipment, and other property of Hawaii Public Broadcasting Authority, including without limitation all broadcast equipment, non-broadcast equipment, machines, files, supplies, records, documents, maps, and other physical assets and personal property heretofore made, used, acquired, or held by the Hawaii public broadcasting authority;
 - (2) All licenses issued by the Federal Communications Commission that are held by Hawaii public broadcasting authority; and
 - (3) rights and obligations of Hawaii public broadcasting authority under deeds, leases, licenses, permits, loans, agreements and contracts, excluding any employment contracts or collective bargaining agreements, executed or entered into with owners of real property, independent contractors, or other broadcasting or production entities and public bodies on behalf of or by the Hawaii public broadcasting authority to the extent that such rights and obligations are transferrable.
- (b) The transfers in subsection (a) shall not require the consent of any public agency except any required approvals of the Federal Communications Commission.
- (c) To the extent consistent with federal law and regulations and with the agreements executed by Hawaii public broadcasting authority, the transfers contemplated by this Act are made on the express condition that the application to transfer the broadcasting licenses from Hawaii public broadcasting authority to Hawaii Public Television Foundation is approved by the Federal Communications Commission.
- (d) The assets and licenses transferred to the Hawaii Public Television Foundation shall be used by the foundation throughout their terms and useful lives, for the purposes of continuing and advancing public broadcasting in Hawaii. If the Hawaii Public Television Foundation determines that any of the equipment listed on the inventory of Hawaii public broadcasting authority as of June 30, 2000, is no longer useful, the State of Hawaii shall have first right, at no cost to the State, to receive possession and ownership of the equipment, which has been determined to be no longer useful. If the Hawaii Public Television Foundation is dissolved, voluntarily or involuntarily, or discontinues public broadcasting in Hawaii, at any time, the State of Hawaii shall have first right to acquire, at no cost to the State, all of the unencumbered assets and licenses transferred to the Hawaii Public Television Foundation under this Act; provided that such assets or licenses not claimed by the State shall be transferred to a public or private entity qualified contractually to succeed the Hawaii Public Television Foundation as the public broadcasting affiliate in Hawaii.

SECTION 3. The Hawaii public broadcasting authority is granted all necessary authority to perform all acts necessary to carry out the transfers described in this Act, including the authority to convey property and assign contracts. The Hawaii

public broadcasting authority shall perform all acts necessary for a timely transfer of licenses held to the Hawaii Public Television Foundation.

SECTION 4. Notwithstanding any law to the contrary, including chapter 103D, parts XI and XII, Hawaii Revised Statutes, the executive director of Hawaii public broadcasting authority shall deliver to the officers or representative of the Hawaii Public Television Foundation all records and property within the possession of the Hawaii public broadcasting authority that relate to the assets, licenses, leases, and contracts being transferred under this Act. SECTION 5. Any and all funds remaining in the Hawaii public broadcasting authority revolving fund as of July 1, 2000, shall be transferred to the Hawaii Public Television Foundation on July 1, 2000.

SECTION 6. The Hawaii public broadcasting authority shall continue to retain and perform all responsibilities set forth in chapter 314, Hawaii Revised Statutes, until July 1, 2000.

SECTION 7. Chapter 314, Hawaii Revised Statutes, is repealed.

SECTION 8. This Act shall take effect upon its approval; except that:

- (1) Section 5 shall take effect only upon the approval by the Federal Communications Commission of the transfer of Hawaii public broadcasting authority's broadcast licenses to the Hawaii Public Television Foundation; and
- (2) Section 7 shall take effect on July 2, 2000; and provided further that the Federal Communications Commission approves of the transfer of Hawaii public broadcasting authority's broadcast licenses to the Hawaii Public Television Foundation.

(Approved May 28, 1999.)