

**ACT 98**

S.B. NO. 816

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 recognizes that the primary intent behind the development of the convention center was to bring new and additional outside money into the state economy. Since the development of the convention center was financed by the sale of bonds that would be repaid by the transient accommodations tax, it is the State's policy to link the use of the convention center facility with hotel room bookings. Therefore, the legislature finds that it is appropriate for the convention center authority to give first priority booking at the convention center to out-of-

state bookings that would generate new tourism revenues for the State by attracting new business and nonresident spending.

The legislature further finds that the convention center authority should give second priority booking at the convention center to smaller corporate meetings, special events, trade and consumer shows, entertainment, and other local events open to the public, provided that it does not interfere with the booking of out-of-state functions and that the preferred booking for local events that do not generate new revenues for the State be booked at other local venues such as the Neal Blaisdell Center or hotels. Traffic and noise impacts to the community arising from the booking of local events at the convention center should also be considered.

The legislature believes that the effectiveness of the convention center is to be determined by its ability to generate new tourism revenues for the State and not its ability to generate revenues to support its operations.

The purpose of this Act is to, among other things:

- (1) Extend the sunset date of the convention center authority (CCA) from June 30, 1999, to June 30, 2000;
- (2) Combine the convention center capital special fund with the convention center operations special fund;
- (3) Appropriate moneys from this consolidated special fund to CCA;
- (4) Specify that reimbursement of the general fund for debt service on general obligation bonds or reimbursable general obligation bonds for the Hawaii convention center be in accordance with a schedule determined by the director of finance, with the approval of the governor, in the best interest of the State; and
- (5) Authorize CCA to waive or substantially discount any payment of the convention center for a specific event whenever CCA determines that the waiver or discount is in the best interest of the convention center facility or the State by attracting new tourist markets or conventioners.

SECTION 2. 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 department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center capital and operations special fund under section 206X-10.5 [and the convention center operations special fund under section 206X-10.6];
- (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) Domestic violence prevention special fund under section 321-1.3;
- (11) Spouse and child abuse special account under section 346-7.5;
- (12) Spouse and child abuse special account under section 601-3.6;
- (13) Funds of the employees' retirement system created by section 88-109;
- (14) Unemployment compensation fund established under section 383-121;
- (15) Hawaii hurricane relief fund established under chapter 431P;

- (16) Hawaii health systems corporation special funds;
- (17) Boiler and elevator safety revolving fund established under section 397-5.5;
- (18) Tourism special fund established under section [201B-11]; and
- (19) Department of commerce and consumer affairs' 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 3. 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 department of education;
- (4) Special funds 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) Domestic violence prevention special fund under section 321-1.3;
- (9) Spouse and child abuse special account under section 346-7.5;
- (10) Spouse and child abuse special account under section 601-3.6;
- (11) Funds of the employees' retirement system created by section 88-109;
- (12) Unemployment compensation fund established under section 383-121;
- (13) Hawaii hurricane relief fund established under chapter 431P;
- (14) Convention center capital and operations special fund established under section 206X-10.5 [and the convention center operations special fund established under section 206X-10.6];
- (15) Hawaii health systems corporation special funds; and
- (16) Tourism special fund established under section [201B-11];

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 4. Section 206X-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Except as otherwise limited by this chapter, the authority also may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Adopt rules in accordance with chapter 91 with respect to its projects, operations, properties, and facilities;

- (6) Through its executive director appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapters 76 and 77;
- (7) Review and approve the convention center development plan proposed by a developer, for the convention center district; inspect and approve development within the convention center district for compliance with convention center development plans and rules; and upon construction of the convention center facility, manage, operate, and maintain or enter into contracts for the professional management, operation, and maintenance of the convention center facility;
- (8) Cause a developer to prepare plans, specifications, and designs for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project, and from time to time, to modify such plans, specifications, or designs; provided that the plans, specifications, or designs shall be subject to review and approval by the authority;
- (9) Procure insurance against any loss and any liability in connection with the convention center and other related assets and operations in such amounts and from such insurers as it deems desirable;
- (10) Contract for and accept gifts or grants in any form from any public agency, or any other source;
- (11) Upon the request of the authority and the approval of the governor, condemn any real property interests as the authority deems necessary for the development of a convention center pursuant to chapter 101; provided that the valuation of any such property acquired pursuant to the exercise of the authority's power under this subsection shall be done without regard to any increase or decrease in the value of the property resulting from the application of this chapter. Property acquired by condemnation shall not be subject to chapter 171;
- (12) Negotiate with the developer for contribution by the developer to defray costs relating to the relocation of persons displaced because of the development;
- (13) On behalf of the State, accept the authority to operate, manage, and maintain the convention center facility upon completion or acquisition of such facility;
- (14) Issue revenue bonds, subject to the approval of the legislature. All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this chapter. All revenue bonds shall be issued in the name of the authority and not in the name of the State. The final maturity date of the revenue bonds may be any date not exceeding thirty years from the date of issuance;
- (15) Pledge or assign all or any part of the receipts and revenues of the authority;
- (16) Set and collect rents, fees, charges, or other payments for the lease, use, occupancy, or disposition of the convention center facility acquired, constructed, or reconstructed by the authority pursuant to this chapter; provided that the authority may waive or substantially discount any rent, fee, charge, or other payment at an open public meeting subject to the requirement of chapter 92 for a specific event whenever the authority determines that the waiver or discount is in the best interest of the convention center facility or the State by attracting new tourist markets or conventioners;
- (17) Acquire, lease as lessee or lessor, own, rent, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter;

- (18) Acquire by purchase, lease, or otherwise, and develop, construct, operate, own, manage, repair, reconstruct, enlarge, or otherwise effectuate, either directly or through developers, a convention center;
- (19) Reimburse 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[;] in accordance with a schedule determined by the director of finance, with the approval of the governor, as may be in the best interest of the State;
- (20) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter; and
- (21) By itself, or in combination or association with qualified persons, by any form of request for proposals, as determined by the authority, any law to the contrary notwithstanding, solicit, accept, review, reject, modify, or approve proposals, and thereafter enter into agreements, for a convention center development plan, and for the initiation, undertaking, supervision and regulation of the design, development, financing, operation and maintenance of a convention center facility and any related developments.”

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 proceeds from revenue bonds issued by the authority; [and]
- (3) Appropriations by the legislature [to the convention center capital special fund.];
- (4) All net revenues or moneys derived from the operations or use of the convention center;
- (5) All or a portion of all net revenues derived from the operation of parking and garage facilities and other concessions at the convention center; and
- (6) All or a portion of all net revenues derived from the food and beverage operations at the convention center facility.

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

- (1) Adopt rules in accordance with chapter 91, to define the term “net 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 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 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) Operation, maintenance, and improvement of the convention center and any public facilities related thereto; and
- [(4)] (5) Any other purpose deemed necessary by the authority for the purpose of planning, improving, and developing 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, 1994, and for each fiscal year thereafter, until December 31, 1998, 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 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.]

Beginning on January 1, 1999<sup>1</sup> revenues collected under this chapter shall be distributed as follows:

- (1) 17.3 per cent 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) 37.9 per cent of the revenues collected under this chapter shall be deposited into the tourism special fund established under section 201B-11;
- (3) 44.8 per cent of the revenues collected under this chapter shall be transferred as follows: 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. Section 206X-10.6, Hawaii Revised Statutes, is repealed.

SECTION 9. Act 96, Session Laws of Hawaii 1988, as amended by Act 159, Session Laws of Hawaii 1992, Act 241, Session Laws of Hawaii 1993, Act 75, Session Laws of Hawaii 1994, and Act 156, Session Laws of Hawaii 1998, is amended by amending section 3 to read as follows:

"SECTION 3. This Act shall automatically expire on June 30, [1999.] 2000. The auditor shall continue to audit and monitor the progress made by the convention center authority in resolving various outstanding issues and problems so as to assure the legislature that these issues have been addressed on or before June 30, 2000. By February 28, 2000, the auditor shall submit a management audit report to the legislature on the effectiveness of the steps taken by the convention center authority to resolve traffic, noise, and other outstanding claims against the authority. The management audit may include financial audit issues that the auditor deems appropriate.

In the event any judicial or quasi-judicial proceeding is commenced regarding the validity of this Act or any section of this Act, or any action of the authority, the running of the period shall be suspended until a final nonappealable determination is made in the judicial or quasi-judicial proceeding."

SECTION 10. The director of finance shall transfer the unexpended balance, including encumbrances and accrued liabilities, of the convention center operations special fund as of the close of business on June 29, 1999, to the credit of the convention center capital and operations special fund. Encumbered moneys shall continue to be encumbered until paid out or released from prior encumbrances.

SECTION 11. There is appropriated out of the convention center capital and operations special fund the sum of \$402,000 or so much thereof as may be necessary for fiscal year 1999-2000 and the same sum or so much thereof as may be necessary

for fiscal year 2000-2001 for the general and administrative expenses of the convention center authority.

The sums appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

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 June 29, 1999; provided that:

- (1) Section 8 shall take effect on June 30, 1999;
- (2) Section 11 shall take effect on July 1, 1999;
- (3) The amendments made to sections 36-27 and 36-30, Hawaii Revised Statutes, by this Act shall not be repealed when those sections are reenacted on July 1, 2000, pursuant to section 13 of Act 216, Session Laws of Hawaii 1997; and
- (4) The amendments made to section 36-27, Hawaii Revised Statutes, by this Act shall not be repealed when that section is reenacted on July 31, 2003, pursuant to section 9 of Act 142, Session Laws of Hawaii 1998.

(Approved June 24, 1999.)

#### Notes

1. Prior to amendment “, ” appeared here.
2. Edited pursuant to HRS §23G-16.5.