

ACT 143

H.B. NO. 2192

A Bill for an Act Relating to the Hawaii Tourism Authority.

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

SECTION 1. Chapter 23, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§23- **Hawaii tourism authority; audit.** (a) The auditor shall conduct at least every five years a management and financial audit of all contracts or agreements awarded by the Hawaii tourism authority to a major contractor to determine if the authority and its major contractors are in compliance with all relevant programmatic and financial requirements. The first audit shall be conducted within one year of the effective date of this Act. These audits shall include but not be limited to a review of the following:

- (1) The responsibilities, services, and activities of all major contractors;
- (2) The propriety of expenditures;
- (3) Compliance by all major contractors with any laws and rules that may be in effect;
- (4) The management and oversight of all major contractors by the authority; and
- (5) Any additional audit issues that the auditor deems appropriate.

(b) The authority and any private companies or agencies receiving state funds shall fully cooperate with and provide assistance to the auditor as needed with respect to its audit, and shall respond promptly to the auditor’s requests in conducting this audit, including providing for records and other information requested in the course of the audit.

(c) The authority shall compensate the auditor for expenditures incurred by the auditor in conducting the management and financial audit.

(d) The auditor shall submit its findings and recommendations to the legislature no later than twenty days before the convening of the regular session following the year in which the audit is conducted.

(e) For purposes of this section, “major contractor” means any contractor to whom a contract or agreement has been awarded that is valued in excess of \$15,000,000.”

SECTION 2. Section 201B-2, Hawaii Revised Statutes, is amended to read as follows:

“[E]§201B-2[3] **Hawaii tourism authority; establishment; board; staff.**

(a) There is established the Hawaii tourism authority, which shall be a body corporate and a public instrumentality of the State, for the purpose of implementing

this chapter. The authority shall be placed within the department of business, economic development, and tourism for administrative purposes only.

(b) The authority shall be headed by a policy-making board of directors which consists of ~~[ten]~~ twelve public, voting members, ~~[one public, nonvoting member,]~~ one ex officio voting member, and ~~[one]~~ two ex officio nonvoting ~~[member,]~~ members; provided that:

- (1) ~~[Ten]~~ Twelve public, voting members shall be appointed by the governor as provided in section 26-34, except as otherwise provided by law;
- (2) The ~~[ten]~~ twelve public, voting members shall be composed of at least one representative each from the city and county of Honolulu and the counties of Hawaii, Kauai, and Maui; the remaining public members shall be appointed at-large;
- (3) Of the ~~[ten]~~ twelve public, voting members, ~~[two]~~ three shall be appointed by the governor from a list of three names ~~[nominated]~~ submitted for each appointment by the president of the senate, and ~~[two]~~ three shall be appointed by the governor from a list of three names ~~[nominated]~~ submitted for each appointment by the speaker of the house of representatives; provided that if fewer than three names are submitted for each appointment, the governor may disregard the list;
- (4) At least six of the ~~[ten]~~ twelve public, voting members shall have knowledge, experience, and expertise in the area of visitor industry management, marketing, ~~[and] promotion[;],~~ transportation, retail, entertainment, or visitor attractions, and at least one shall have knowledge, experience, and expertise in the area of Hawaiian cultural practices; provided that no more than three members shall represent, be employed by, or be under contract to any sector of the industry represented on the board;
- (5) The governor shall make appointments to ensure the fulfillment of all requirements; provided that any appointments made after the effective date of this Act, shall be made to fulfill the requirements in place when the appointments are made;
- (6) The director of business, economic development, and tourism, or a designated representative, shall be an ex officio voting member;
- (7) The director of transportation, or a designated representative, shall be an ex officio nonvoting member; and
- (8) ~~[The governor shall appoint a public, nonvoting member.]~~ The chairperson of the board of land and natural resources, or a designated representative, shall be an ex officio nonvoting member.

(c) The public members shall be appointed by the governor for terms of 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].~~ Each public 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 board.

(d) The board shall elect a chairperson from among the voting members. The director of business, economic development, and tourism or the designated representative shall not be chairperson of the board.

(e) ~~[Six]~~ Seven voting members shall constitute a quorum~~[-whose]~~ and a minimum of seven affirmative ~~[vote]~~ votes shall be necessary for all actions by the authority. The members shall serve without compensation, but shall be reimbursed for expenses, including traveling expenses, necessary for the performance of their duties.

(f) The board shall appoint an executive director, exempt from chapters 76 and [77,] 88, who shall oversee the authority staff[, and shall be compensated at a salary level set by the governor.]; provided that the compensation package, including salary, shall not exceed fifteen per cent of the 3.5 per cent authorized for administrative expenses under section 201B-11(c); and provided further that the compensation package shall not include private sector moneys or other contributions. The board shall set the executive director's duties, responsibilities, holidays, vacations, leaves, hours of work, and working conditions. It may grant such other benefits as it deems necessary.

(g) The authority may employ persons not subject to chapters 76[, 77,] and 78 to perform and execute the functions of the authority.”

SECTION 3. Section 201B-3, Hawaii Revised Statutes, is amended by amending subsection (a)¹ to read as follows:

“(a) Except as otherwise limited by this chapter, the [board] authority 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, provided that the authority may enter into contracts and agreements for a period of up to five years[;], subject to the availability of funds;
- (4) Make and alter bylaws for its organization and internal management;
- (5) [~~Adopt~~] Unless otherwise provided in this chapter, adopt rules in accordance with chapter 91 with respect to its projects, operations, properties, and facilities;
- (6) Through its executive director represent the authority in communications with the governor and with the legislature;
- (7) Through its executive director appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapters 76[, 77,] and 78;
- (8) Through its executive director purchase supplies, equipment, or furniture;
- (9) Through its executive director allocate the space or spaces which are to be occupied by the authority and appropriate staff;
- (10) Engage the services of qualified persons to implement the State's tourism marketing plan or portions thereof as determined by the [board;] authority;
- (11) Engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (12) Procure insurance against any loss in connection with its property and other assets and operations in such amounts from such insurers as it deems desirable;
- (13) Contract for[; and] or accept revenues, compensation, proceeds, and gifts or grants in any form from any public agency or any other source;
- (14) Create a vision and develop a long range plan for tourism in Hawaii[; ~~including product development, infrastructure, and diversification issues~~];
- (15) Develop, coordinate, and implement state policies and directions for tourism and related activities taking into account the economic, social, and physical impacts of tourism on the State[;] and its natural resources infrastructure; provided that the authority shall support the efforts of other state and county departments or agencies to manage, improve,

- and protect Hawaii's natural environment and areas frequented by visitors;
- (16) Develop and implement the state tourism strategic marketing plan, which shall be updated every three years, to promote and market the State as a desirable leisure and business visitor destination;
 - (17) Have a permanent, strong focus on marketing and promotion;
 - (18) Conduct market development-related research as necessary;
 - (19) Coordinate all agencies and advise the private sector in the development of tourism-related activities and resources;
 - (20) Work to eliminate or reduce barriers to travel in order to provide a positive and competitive business environment, including coordinating with the department of transportation on issues affecting airlines and air route development;
 - (21) Market and promote sports-related activities and events;
 - (22) Coordinate the development of new products with the counties and other public sectors and private sectors, including the development of sports, culture, health, education, business, and eco-tourism;
 - (23) Establish a public information and educational program to inform the public of tourism and tourism-related problems;
 - (24) Encourage the development of tourism educational, training, and career counseling programs; and
 - (25) Establish a program to monitor, investigate, and respond to complaints about problems resulting directly or indirectly from the tourism industry and taking appropriate action as necessary.¹⁷

SECTION 4. Section 201B-7, Hawaii Revised Statutes, is amended to read as follows:

“§201B-7 Tourism-related activities. (a) The authority may enter into contracts and agreements that include the following:

- (1) Tourism promotion, marketing, and development;
- (2) Market development-related research;
- (3) Product development and diversification issues[;] focused on visitors;
- (4) Promotion, development, and coordination of sports-related activities and events;
- (5) Promotion of Hawaii, through a coordinated statewide effort, as a place to do business, including high technology business[;], and as a business destination;
- (6) Reduction of barriers to travel; and
- ~~[(7) Tourism public information and educational programs;~~
- ~~(8) Programs to monitor and investigate complaints about the problems resulting from the tourism industry in the State; and~~
- ~~(9)] (7) Any and all other activities necessary to carry out the intent of this chapter;~~

~~provided that for [the purposes of continuity, the Hawaii Visitors and Convention Bureau shall be the designated agency to conduct the marketing and promotion of the State until the end of fiscal year 1998-1999 or until a date specified by the board.] any contract or agreement valued at \$25,000 and over, the authority shall provide notice to the speaker of the house of representatives and the president of the senate on the same day that such notification is given to the governor.~~

(b) The authority may delegate to staff [shall be responsible for] the responsibility for soliciting, awarding, and executing contracts, and monitoring and facilitating any and all functions developed in accordance with subsection (a).”

SECTION 5. Section 201B-11, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Moneys in the tourism special fund shall be used by the authority for the purposes of this chapter, provided that not more than [~~three~~] 3.5 per cent of this amount shall be used for administrative expenses; provided further that of this amount the sum of \$15,000 shall be made available for a protocol fund to be expended at the discretion of the executive director.¹”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 7. This Act shall take effect on July 1, 2002.

(Approved June 7, 2002.)

Notes

1. Act 38 of this session:
 - (A) Added the subsection (a) designation to section 201B-3;
 - (B) Deleted paragraph (26) of section 201B-3; and
 - (C) Deleted the proviso at the end of section 201B-11(c).
2. Edited pursuant to HRS §23G-16.5.