

ACT 253

H.B. NO. 2451

A Bill for an Act Relating to the Convention Center.

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

SECTION 1. During the 1988 legislative session, Act 96 was enacted to create the convention center authority for the primary purpose of approving a convention center development plan and supervising the development by a developer of all development within the convention center district pursuant to the approved convention center development plan, including the development of a convention center facility. The convention center authority was also authorized to enter into contracts for the professional management, operation, and maintenance of the convention center facility. Construction of the convention center facility has been completed and a contract for its professional management, operation, and

maintenance has been executed by the State. The convention center authority law expired on June 30, 2000.

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 facility was primarily 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 State to give first priority to out-of-state bookings that would generate revenues for the State.

The legislature further finds that the State should give second priority booking at the convention center facility to corporate meetings, special events, trade shows, consumer shows, entertainment shows, social events, or events catering to the general community, if it does not interfere with any potential priority use.

Since the effectiveness of the convention center is to be primarily determined by its ability to generate tourism-related revenues for the State, it should be given the necessary tools to effectively compete against other convention and hotel destinations. The Hawaii convention center should be allowed to operate as a business enterprise, with adequate moneys for capital expenditures related to major repair, replacement, or construction of items at the convention center facility.

The purpose of this Act is to assign the responsibility to market, operate, manage, and maintain the Hawaii convention center facility to the Hawaii tourism authority and to establish a Hawaii convention center enterprise special fund.

SECTION 2. Chapter 201B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§201B- Convention center enterprise special fund. (a) There is established in the state treasury the convention center enterprise 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 or moneys derived from the operations of the convention center to include all revenues from the food and beverage service, all revenues from the parking facilities or from any concession, and all revenues from the sale of souvenirs, logo items, or any other items offered for purchase at the convention center;
- (3) Private contributions, interest, compensation, gross or net revenues, proceeds, or other moneys derived from any source or for any purpose arising from the use of the convention center facility; and
- (4) Appropriations by the legislature, including any transfers from the tourism special fund established under section 201B-11 for marketing the facility pursuant to section 201B-7(a)(9).

(b) Moneys in the convention center enterprise special fund shall be used by the authority for the payment of any and all debt service relating to the convention center, any expense arising from any and all use, operation, maintenance, alteration, improvement, or any unforeseen or unplanned repairs of the convention center, including without limitation the food and beverage service and parking service provided at the convention center facility, the sale of souvenirs, logo items, or other items, for any future major repair, maintenance, and improvement of the convention center facility as a commercial enterprise or as a world class facility for conventions, entertainment, or public events, and for marketing the facility pursuant to section 201B-7(a)(9).”

SECTION 3. Section 201B-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Convention center facility” or “convention center” means any combination of land, buildings, and improvements thereon, acquired or developed by the State, and includes exhibition halls, meeting rooms, a plenary session hall, and support space that reflect a Hawaiian sense of place; any other structure or facility required or useful for the operation of a convention center, including commercial, office, community service, parking, garage, and other supporting service structures; and, all necessary, useful, and related equipment, furnishings, and appurtenances.”

SECTION 4. 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 out-of-school time instructional program 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~~] enterprise special fund under section [~~206X-10.5;~~] 201B-;
- (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 210B-11¹;
- (19) Department of commerce and consumer affairs' special funds;
- (20) Compliance resolution fund established under section 26-9;
- (21) Universal service fund established under chapter 269;
- (22) Integrated tax information management systems special fund under section 231-3.2;
- (23) Insurance regulation fund under section 431:2-215;
- (24) Hawaii tobacco settlement special fund under section 328L-2;
- (25) Emergency and budget² reserve fund under section 328L-3;
- (26) Probation services special fund under section 706-649;
- (27) High technology special fund under section 206M-15.5;
- (28) Public schools special fees and charges fund under section 302A-1130(f);
- (29) Cigarette tax stamp enforcement special fund established by section 28-14;

(30) Cigarette tax stamp administrative special fund established by section 245-41.5; and

(31) Tobacco enforcement special fund established by section 28-15; 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 5. 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 out-of-school time instructional program 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~~] enterprise special fund established under section [~~206X-10.5;~~] 201B-_____;
 - (15) Hawaii health systems corporation special funds;
 - (16) Tourism special fund established under section 201B-11;
 - (17) Compliance resolution fund established under section 26-9;
 - (18) Universal service fund established under chapter 269;
 - (19) Integrated tax information management systems special fund under section 231-3.2;
 - (20) Insurance regulation fund under section 431:2-215;
 - (21) Hawaii tobacco settlement special fund under section 328L-2;
 - (22) Emergency and budget reserve fund under section 328L-3;
 - (23) Probation services special fund under section 706-649;
 - (24) High technology special fund under section 206M-15.5;
 - (25) Public schools special fees and charges fund under section 302A-1130(f);
 - (26) Cigarette tax stamp enforcement special fund established by section 28-14;
 - (27) Cigarette tax stamp administrative special fund established by section 245-41.5; and
 - (28) Tobacco enforcement special fund established by section 28-15;
- 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 6. Section 102-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The bidding requirements of subsection (a) shall not apply to concessions or space on public property set aside for the following purposes:

- (1) For operation of ground transportation services and parking lot operations at airports, except for motor vehicle rental operations under chapter 437D;
- (2) For lei vendors;
- (3) For airline and aircraft operations;
- (4) For automatic teller machines and vending machines, except vending machines located at public schools operated by blind or visually handicapped persons in accordance with section 302A-412;
- (5) For operation of concessions set aside without any charge;
- (6) For operation of concessions by handicapped or blind persons; except concessions operated in the public schools by blind or visually handicapped persons in accordance with section 302A-412;
- (7) For operation of concessions on permits revocable on notice of thirty days or less; provided that no such permits shall be issued for more than a one year period;
- (8) For operation of concessions or concession spaces for a beach service association dedicated to the preservation of the Hawaii beachboy tradition, incorporated as a nonprofit corporation in accordance with state law, and whose members are appropriately licensed or certified as required by law;
- (9) For operation of concessions at county zoos, botanic gardens, or other county parks which are environmentally, culturally, historically, or operationally unique and are supported, by nonprofit corporations incorporated in accordance with state law solely for purposes of supporting county aims and goals of the zoo, botanic garden, or other county park,³ and operating under agreement with the appropriate agency solely for such purposes, aims, and goals; ~~and~~
- (10) For operations of concessions that furnish goods or services for which there is only one source, as determined by the head of the awarding government agency in a writing that shall be included in the contract file[-]; and
- (11) For operation of concession or concession spaces at the convention center under chapter 201B.’’

SECTION 7. Section 201B-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a)⁴ Except as otherwise limited by this chapter, the board 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;⁵ provided that the authority may enter into contracts and agreements for a period of up to five years; and provided further that the authority may enter into agreements for the use of the convention center facility for a period of up to ten years;
- (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 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;
- (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 and⁶ from such insurers as it deems desirable;
- (13) Contract for, and accept gifts or grants in any form from any public agency or any other source[;], including any revenues or proceeds arising from the operation or use of the convention center;
- (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;
- (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 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 public 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]⁷
- (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[-];⁸
- (26)⁹ Set and collect rents, fees, charges, or other payments for the lease, use, occupancy, or disposition of the convention center facility without regard to chapter 91;
- (27) Notwithstanding the provisions of chapter 171, acquire, lease as lessee or lessor, own, rent, hold, and dispose of the convention center facility in the exercise of its powers and the performance of its duties under this chapter; and
- (28) Acquire by purchase, lease, or otherwise, and develop, construct, operate, own, manage, repair, reconstruct, enlarge, or otherwise effec-

tuatue, either directly or through developers, a convention center facility.”

SECTION 8. Section 201B-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(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;
- (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 high technology business;
- (6) Reduction of barriers to travel;
- (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) Marketing, management, use, operation, or maintenance of the convention center facility, including the purchase or sale of goods or services, logo items, concessions, sponsorships, and license agreements, or any use of the convention center facility as a commercial enterprise; provided that effective January 1, 2003, and thereafter the contract for management of the convention center facility shall include marketing for all uses of the facility;

~~(9)~~ (10) 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].”~~

SECTION 9. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) ~~[Beginning on January 1, 1999 [,] revenues]~~ 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]~~ enterprise special fund established under section [206X-10.5;] 201B- ; provided that beginning January 1, 2002, if the amount of the revenue collected under this paragraph exceeds \$31,000,000 in any calendar year, revenues collected in excess of \$31,000,000 shall be deposited into the general fund;
- (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; and
- (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 10. 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; Act 156, Session Laws of Hawaii 1998; and Act 98, Session Laws of Hawaii 1999, is amended by amending section 3 to read as follows:

“SECTION 3. This Act [~~shall automatically expire~~] is repealed on June 30, 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 11. There is appropriated out of the convention center enterprise special fund the sum of \$46,000,000, or so much thereof as may be necessary for fiscal year 2002-2003, to be expended by the Hawaii tourism authority for the purposes of this Act.

SECTION 12. All deeds, leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the convention center authority pursuant to the provisions of the Hawaii Revised Statutes, which are reenacted or made applicable by reference to the Hawaii tourism authority by this Act, shall remain in full force and effect. Effective June 30, 2000, every reference to the convention center authority in the Hawaii Revised Statutes shall be construed as a reference to the Hawaii tourism authority.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹⁰

SECTION 14. This Act shall take effect on July 1, 2002; provided that section 10 of this Act shall take effect retroactive to June 29, 1999; provided further that section 12 shall take effect retroactive to June 30, 2000; provided further that 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, by section 9 of Act 142, Session Laws of Hawaii 1998.

(Became law on July 1, 2002, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

Notes

1. Prior to amendment “201B-11” appeared here.
2. Prior to amendment “Emergency budget and” appeared here.
3. Comma should be underscored.
4. Prior to amendment, the designation of subsection (a) did not appear here.
5. Prior to amendment “,” appeared here.
6. “And” should be underscored.
7. Prior to amendment “and” did not appear here.
8. Prior to amendment “; and” appeared here.
9. Prior to amendment “(26) Do all things necessary to carry out its purposes and exercise the powers given and granted in this chapter.” appeared here.
10. Edited pursuant to HRS §23G-16.5.