

## ACT 86

H.B. NO. 2538

A Bill for an Act Relating to Aquatic Resources.

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

SECTION 1. 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 special fund under section 206X-10.5;
- (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;
- (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 budget and 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; and
- (32) Sport fish special fund under section 187A-9.5;

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 2. 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 special fund established under section 206X-10.5;
  - (15) Hawaii health systems corporation special funds;
  - (16) Tourism special funds<sup>1</sup> 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; and
  - (29) Sport fish special fund under section 187A-9.5;
- 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 3. Section 187A-9.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) In addition to subsection (c), the department may use moneys in the sport fish special fund for the importation into, and the management, preservation, propagation, enforcement, and protection of sport fishes in, the State; provided that the department, prior to authorizing expenditures or expending funds from the sport fish special fund, first shall attempt to use those funds to maximize the State’s participation to secure federal funds under the Federal Aid in Sport Fish Restoration (Dingell-Johnson/Wallop-Breaux) Act, as amended.”

SECTION 4. Section 188-37, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department may issue permits to those persons with a valid commercial marine license issued pursuant to section 189-2 who own or operate a vessel deemed capable by the department for effectively taking marine life within the Northwestern Hawaiian Islands, and whenever the department deems necessary, it may limit the number of permits issued to take marine life in any particular area and such limitation shall be on the basis of the order of application for permits. Issuance of permits shall be limited to persons utilizing methods or appliances approved by rule of the department, which need not be legal elsewhere within the State, and these permittees may take species of marine life, when and as approved by rule of the department. The fee for the Northwestern Hawaiian Islands taking permit shall be established by the department by rules adopted in accordance with chapter 91. ~~[The department shall set the fee in an amount that, when combined with the fees provided for in sections 188-50 and 189-2, shall be reasonably necessary to supplement the funding for:~~

- ~~(1) Enforcement of this chapter and section 189-2; and~~
- ~~(2) The activities set forth in section 187A-11.]~~

The department may revoke any permit for any infraction of the terms and conditions of the permit. Any person whose permit has been revoked shall not be eligible to apply for another permit until the expiration of one year from the date of revocation.”

SECTION 5. Section 188-50, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The licenses ~~[shall]~~ may be issued by agents of the department of land and natural resources upon written application in such form as may be prescribed by the department together with payment of a fee. ~~[The application shall require a~~

~~statement under oath of the applicant's name, address, domicile or residence, length of residence in the State, age, race, height, weight, and color of hair and eyes. All licenses shall expire and become void one year from the date of issuance, except the tourist license which shall expire and become void thirty days after the date of issuance; provided that no fees or charges shall be made for licenses issued to persons sixty five years of age and older. A duplicate license may be issued upon affidavit that the original license has been lost or destroyed and upon the payment of a duplicate license fee.] The fees for licenses and duplicate licenses shall be established by the department by rules adopted in accordance with chapter 91. [The department shall set the fees in an amount that, when combined with the fees provided for in sections 188-37 and 189-2, shall be reasonably necessary to supplement the funding for:~~

- ~~(1) Enforcement of this chapter and section 189-2; and~~
- ~~(2) The activities set forth in section 187A-11.]”~~

SECTION 6. Section 189-2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The fees for commercial marine licenses and duplicate commercial marine licenses shall be established by the department by rules adopted in accordance with chapter 91. ~~[The department shall set the fees in an amount that, when combined with the fees provided for in sections 188-37 and 188-50, shall be reasonably necessary to supplement the funding for:~~

- ~~(1) Enforcement of this section and chapter 188; and~~
- ~~(2) The activities set forth in section 187A-11.]”~~

SECTION 7. Section 189-2.4, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) The following revenues shall be deposited into the commercial fisheries special fund:

- (1) Moneys collected as fees for ~~[e]ommererial fishing]~~ licenses and permits~~[,] related to commercial fishing and the sale of aquatic life,~~ use of public fishing grounds for commercial fishing purposes, and use of commercial fisheries-related facilities;
  - (2) Moneys collected under the provision of any law or rule related to the importation, rearing, fishing, taking, catching, or killing of any aquatic life for commercial purposes;
  - (3) Moneys, other than informers' fees authorized under section 187A-14, collected as fines or bail forfeitures or administrative fines for violations of this chapter;
  - (4) Moneys collected from the sale of any article purchased from the department related to aquatic life used for commercial purposes or fishing for commercial purposes;
  - (5) Any monetary contributions or moneys collected from the sale of nonmonetary gifts to benefit aquatic life used for commercial purposes or fishing for commercial purposes; and
  - (6) Moneys derived from interest, dividend, or other income from the above sources.
- (c) The commercial fisheries special fund shall be used for the following:
- (1) Programs and activities for projects concerning aquatic life used for commercial purposes;
  - (2) Developing and conducting resource monitoring programs, conducting studies to determine the sustainable use of aquatic life for commercial purposes, and developing recommendations for acceptable levels of use;

- (3) Research programs and activities concerning the conservation and management of aquatic life for commercial purposes;
- (4) Programs and activities concerning the importation and management, preservation, propagation, enforcement, and protection of aquatic life used for commercial purposes; and
- (5) Payroll for personnel of the department or the awarding of grants-in-aid to or contracts with the University of Hawaii or other qualified organizations or individuals to develop or implement the programs and activities for the conservation and management of aquatic life for commercial purposes.”

SECTION 8. Section 187A-11, Hawaii Revised Statutes, is repealed.

SECTION 9. Statutory material to be repealed is bracketed and ~~stricken~~.<sup>2</sup> New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval; provided 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, pursuant to section 9 of Act 142, Session Laws of Hawaii 1998.

(Approved May 31, 2002.)

**Notes**

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