
A BILL FOR AN ACT

RELATING TO INDEPENDENT LEGAL COUNSEL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Congress through the
2 Hawaiian Homes Commission Act, 1920, as amended (HHCA), set
3 aside lands to be used for the benefit of native Hawaiians. As
4 required by the Admission Act and as a compact with the United
5 States, the State of Hawaii and the people of Hawaii adopted the
6 HHCA as a provision of the Hawaii State Constitution and agreed
7 to faithfully carry out the spirit of the HHCA for the
8 rehabilitation of the Hawaiian race. These trust
9 responsibilities remain to this day.

10 Given this unique and significant history, the Hawaiian
11 homes commission should be allowed to retain independent legal
12 counsel. At the same time, the option of utilizing the services
13 of the attorney general as needed remains available.

14 The purpose of this Act is to allow the Hawaiian homes
15 commission to retain independent legal counsel.

16 SECTION 2. Section 28-8.3, Hawaii Revised Statutes, is
17 amended as follows:

18 (1) By amending subsection (a) to read as follows:

.B. NO.

1 "(a) No department of the State other than the attorney
2 general may employ or retain any attorney, by contract or
3 otherwise, for the purpose of representing the State or the
4 department in any litigation, rendering legal counsel to the
5 department, or drafting legal documents for the department;
6 provided that the foregoing provision shall not apply to the
7 employment or retention of attorneys:

8 (1) By the public utilities commission, the labor and
9 industrial relations appeals board, and the Hawaii
10 labor relations board;

11 (2) By any court or judicial or legislative office of the
12 State; provided that if the attorney general is
13 requested to provide representation to a court or
14 judicial office by the chief justice or the chief
15 justice's designee, or to a legislative office by the
16 speaker of the house of representatives and the
17 president of the senate jointly, and the attorney
18 general declines to provide such representation on the
19 grounds of conflict of interest, the attorney general
20 shall retain an attorney for the court, judicial, or
21 legislative office, subject to approval by the court,
22 judicial, or legislative office;

____.B. NO.____

- 1 (3) By the legislative reference bureau;
- 2 (4) By any compilation commission that may be constituted
- 3 from time to time;
- 4 (5) By the real estate commission for any action involving
- 5 the real estate recovery fund;
- 6 (6) By the contractors license board for any action
- 7 involving the contractors recovery fund;
- 8 (7) By the office of Hawaiian affairs;
- 9 (8) By the department of commerce and consumer affairs for
- 10 the enforcement of violations of chapters 480 and
- 11 485A;
- 12 (9) As grand jury counsel;
- 13 (10) By the Hawaii health systems corporation, or its
- 14 regional system boards, or any of their facilities;
- 15 (11) By the auditor;
- 16 (12) By the office of ombudsman;
- 17 (13) By the insurance division;
- 18 (14) By the University of Hawaii;
- 19 (15) By the Kahoolawe island reserve commission;
- 20 (16) By the division of consumer advocacy;
- 21 (17) By the office of elections;
- 22 (18) By the campaign spending commission;

.B. NO.

- 1 (19) By the Hawaii tourism authority, as provided in
2 section 201B-2.5;
- 3 (20) By the division of financial institutions;
- 4 (21) By the office of information practices;
- 5 (22) By the school facilities authority; [~~or~~]
- 6 (23) By the Hawaiian homes commission; provided that:
- 7 (A) The Hawaiian homes commission may use the
8 services of the attorney general as needed; and
- 9 (B) Legal fees owed to independent counsel shall be
10 paid by the State; or
- 11 ~~[(23)]~~ (24) By a department, if the attorney general, for
12 reasons deemed by the attorney general to be good and
13 sufficient, declines to employ or retain an attorney
14 for a department; provided that the governor waives
15 the provision of this section."
- 16 (2) By amending subsection (c) to read as follows:
- 17 "(c) Every attorney employed by any department on a full-
18 time basis, except an attorney employed by the public utilities
19 commission, the labor and industrial relations appeals board,
20 the Hawaii labor relations board, the office of Hawaiian
21 affairs, the Hawaii health systems corporation or its regional
22 system boards, the department of commerce and consumer affairs

.B. NO.

1 in prosecution of consumer complaints, insurance division, the
2 division of consumer advocacy, the University of Hawaii, the
3 Hawaii tourism authority as provided in section 201B-2.5, the
4 office of information practices, the Hawaiian homes commission,
5 or as grand jury counsel, shall be a deputy attorney general."

6 SECTION 3. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

11

BY REQUEST

____.B. NO._____

Report Title:

Hawaiian Homes Commission; Independent Legal Counsel

Description:

Allows the Hawaiian Homes Commission to retain independent legal counsel. Authorizes the Hawaiian Homes Commission to use the services of the Attorney General as needed. Provides that funds owed to independent legal counsel shall be paid by the State.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.