
A BILL FOR AN ACT

RELATING TO UNIFORM STATE LAWS.

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

1 SECTION 1. In 1889, the New York Bar Association appointed
2 a special committee on uniformity of laws. In the next year,
3 the New York legislature authorized the appointment of
4 commissioners "to examine certain subjects of national
5 importance that seemed to show conflict among the laws of the
6 several commonwealths, to ascertain the best means to effect an
7 assimilation or uniformity in the laws of the states, and
8 especially whether it would be advisable for the State of New
9 York to invite the other states of the Union to send
10 representatives to a convention to draft uniform laws to be
11 submitted for approval and adoption by the several states." In
12 that same year, the American Bar Association (ABA) passed a
13 resolution recommending that each state provide for
14 commissioners to confer with the commissioners of other states
15 on the subject of uniformity of legislation on certain subjects.
16 In August 1892, the first National Conference of Commissioners
17 on Uniform State Laws (commonly referred to as the "NCCUSL" or
18 the "Uniform Law Commissioners") convened in Saratoga, New York,



1 three days preceding the annual meeting of the ABA. By 1912,
2 every state was participating in the NCCUSL. As it has
3 developed, the NCCUSL is a confederation of state interests. It
4 arose out of the concerns of state governments for the
5 improvement of the law and for better interstate relationships.
6 Its sole purpose has been, and remains, service to state
7 governments and improvement of state law.

8 As a state service organization, the NCCUSL depends upon
9 state appropriations for its continued operation. All states,
10 the District of Columbia, Puerto Rico, and the U.S. Virgin
11 Islands are asked to contribute a specific amount, based on
12 population, for the maintenance of the NCCUSL. In addition,
13 each state commission requests an amount to cover its travel to
14 the NCCUSL annual meeting.

15 The NCCUSL is a unique institution created to consider
16 state law and to determine in which areas of the law uniformity
17 is important. The work of the NCCUSL has been a valuable
18 addition over time to the improvement of state law in a great
19 many subject areas. Included in that work have been acts such
20 as the Uniform Commercial Code, the Uniform Partnership Act, the
21 Uniform Limited Partnership Act, the Uniform Interstate Family
22 Support Act, the Uniform Child Custody Jurisdiction Act, the



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1 Uniform Anatomical Gift Act, and the Model State Administrative
 2 Procedure Act, acts which have been adopted uniformly by nearly
 3 all the states or which have been heavily used by most state
 4 legislatures. Even with acts that have not been uniformly
 5 adopted, the texts consistently contribute to the improvement of
 6 the law and have served as valuable references for the
 7 legislatures in their effort to improve the quality of state
 8 law.

9 The procedures of the NCCUSL ensure meticulous
 10 consideration of each uniform or model act. The NCCUSL spends a
 11 minimum of two years on each draft. Sometimes, the drafting
 12 work extends much longer. The drafting work for such
 13 large-scale acts as the Uniform Commercial Code, the Uniform
 14 Probate Code, and the Uniform Land Transactions Act took nearly
 15 a decade to complete. No single state has the resources
 16 necessary to duplicate this meticulous, careful nonpartisan
 17 effort. Without the NCCUSL, nothing like the existing body of
 18 uniform state laws would ever be available to the states.

19 The NCCUSL also permits the states to tap the skills and
 20 resources of the legal profession for very little cost. No
 21 Uniform Law Commissioners are not is paid for their services,
 22 receiving only reimbursement for actual expenses incurred. The

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1 NCCUSL estimates that each commissioner devotes approximately
2 two hundred hours a year to NCCUSL work, including work on
3 various drafting committees and attendance at the annual
4 meeting. These are hours mainly spent in research and drafting
5 work--solid, substantive hours. The cumulative value of this
6 donated time in the development of uniform and model acts
7 averages about \$6,000,000 per year, at a conservative estimate.
8 The total requested contribution of all the states to the
9 operation of the NCCUSL is \$1,769,800 in fiscal year 2005-2006.
10 The smallest state contribution is \$12,600 (U.S. Virgin Islands)
11 and the largest is \$129,700 (California). Hawaii's contribution
12 is \$18,900 for fiscal year 2006-2007, which represents an
13 extraordinarily good, cost-effective investment for the citizens
14 of Hawaii. Even a modest use of the work product of the NCCUSL
15 guarantees any state a substantial return on each dollar
16 invested. On the average, each state has adopted eighty-five
17 uniform and model acts. Hawaii has had one hundred seventeen
18 enactments of uniform acts, amendments to uniform acts, and
19 revised uniform acts. For every dollar invested by each state,
20 it has received very substantial and valuable services.

21 The NCCUSL works efficiently for all of the states because
22 individual lawyers are willing to donate time to the uniform law



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1 movement, and because it is a genuine cooperative effort of all
 2 the states. The NCCUSL seemed like a very good idea to its
 3 founders in 1892. They saw nearly unsolvable problems resulting
 4 from the rapid growth of the United States against confusing
 5 patterns of inadequate state law. They were deeply concerned
 6 about the evils of centralized government, fearing the unchecked
 7 growth of the federal government.

8 The NCCUSL continues to be a very good idea. The states
 9 have chosen to maintain the NCCUSL because it has been useful
 10 and because it strengthens the states in a federal system of
 11 government. Different laws in different states continue to be a
 12 problem. Either the states solve the problem or the issues are
 13 removed to Congress. Without a state-sponsored national
 14 institution like the NCCUSL, more and more legislative activity
 15 would shift from state capitols to Capitol Hill in Washington,
 16 D.C.

17 The procedures for preparing an act are the result of long
 18 experience with the creation of legislation. The NCCUSL
 19 maintains a standing committee called the Scope and Program
 20 Committee that considers new subject areas of state law as
 21 potential for uniform or model acts. That committee studies
 22 suggestions from many sources, including the organized bar,

1 state government, and private persons. If a subject area cannot
2 be adequately studied by the Scope and Program Committee, it is
3 likely to be given to a special study committee. Study
4 committees report back to the Scope and Program Committee.
5 Recommendations from the Scope and Program Committee go to the
6 NCCUSL Executive Committee and to the entire NCCUSL for approval
7 or disapproval.

8 Once a subject receives approval for drafting, a drafting
9 committee is selected, and a budget is established for the
10 committee work. A reporter is usually engaged to provide
11 professional drafting assistance, although a few committees work
12 without professional assistance. Most often, the reporters are
13 law professors with specific expertise in the area of law
14 addressed in the act they draft, who work with the drafting
15 committees for very modest honorariums.

16 Advisors and participating observers are solicited to
17 assist every drafting committee. The ABA appoints official
18 advisors for every committee. Participating observers may come
19 from state government, organizations with interests and
20 expertise in a subject, and from the ranks of recognized experts
21 in a subject. Advisors and participating observers are invited
22 to work with drafting committees and to contribute comments.

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1 They do not make final decisions with respect to the final
2 contents of an act. Only NCCUSL members who compose the
3 drafting committee may do this.

4 A committee meets according to the needs of the project.
5 Meetings ordinarily begin on Friday morning and finish by Sunday
6 noon, so as to conflict the least with ordinary working hours.
7 A short act may require one or two committee meetings. Major
8 acts may require a meeting per month for a considerable period
9 of time--several years, in some instances. A given committee
10 may produce a number of successive drafts as an act evolves.

11 The NCCUSL is convened as a body once a year. It meets for
12 a period of eight to twelve days, usually in July or August. At
13 each annual meeting, during its working life, each drafting
14 committee must present its latest working draft to the whole
15 body of the NCCUSL. The entire text of each working draft is
16 actually read aloud--a reading of a proposed uniform law is not
17 by title only, but is considered section by section either by
18 section title or word for word--and debated during proceedings
19 of the committee of the whole. This scrutiny continues from
20 annual meeting to annual meeting until a final draft satisfies
21 the whole body of the commissioners. No proposed uniform law
22 becomes officially recognized as a uniform act without at least

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1 two years' consideration, meaning every act receives at least
2 one interim reading at an annual meeting and a final reading at
3 a subsequent annual meeting. As noted previously, there is
4 often more than one interim reading and a drafting process that
5 exceeds two years in duration. A draft becomes an official act
6 by a majority vote of the states (one vote to each state). The
7 vote by states completes the drafting work and the act is ready
8 for consideration by the state legislatures.

9 The cost of this process to the states is in travel
10 expenses, paper and publication costs, and meeting costs.
11 Nearly all the professional services are donated, thereby
12 eliminating the single greatest cost factor. For the states,
13 with their necessary cost consciousness, the system has
14 extraordinary value.

15 The governing body of the NCCUSL is the NCCUSL Executive
16 Committee, which is composed of the officers, certain ex officio
17 members, and members appointed by the President of the NCCUSL.
18 Certain activities are conducted by standing committees. As
19 mentioned above, the Committee on Scope and Program considers
20 all new subject areas for possible uniform acts. The
21 Legislative Committee superintends the relationships of the
22 NCCUSL to the state legislatures.

1 A small staff located in Chicago operates the national
2 office of the NCCUSL. The national office handles meeting
3 arrangements, publications, legislative liaison, and general
4 administration for the NCCUSL.

5 The NCCUSL has limited its full-time staff to nine to
6 prevent accrual of needless administrative costs. Included are
7 the Legislative Director and Legal Counsel, the Deputy
8 Legislative Director and Legal Counsel, the Legislative Counsel,
9 the Chief Administrative Officer, and the Communications
10 Officer, who are the only executive staff. The Executive
11 Director's position is part-time, and is traditionally occupied
12 by someone from the law school community. In addition, the
13 NCCUSL contracts with professional, independent contractors for
14 part of its public information and educational materials.

15 The NCCUSL maintains relations with several sister
16 organizations. Official liaison is maintained with the ABA,
17 which annually contributes to the operation of the NCCUSL.
18 Liaison is also maintained with the American Law Institute, the
19 Council of State Governments, and the National Conference of
20 State Legislatures on an ongoing basis. Liaison and activities
21 may be conducted with other associations as interests and
22 activities necessitate.

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1 Hawaii created a commission to participate in the NCCUSL in
 2 1911. The Hawaii commission to promote uniform legislation is
 3 presently within the state department of the attorney general
 4 and, pursuant to section 26-7, Hawaii Revised Statutes, is
 5 advisory to the attorney general and to the legislature on
 6 matters relating to the promotion of uniform legislation.
 7 Pursuant to sections 3-1 and 26-7, Hawaii Revised Statutes, the
 8 commission consists of five members, who are appointed by the
 9 governor, with the advice and consent of the senate, for
 10 staggered terms of four years and until their successors are
 11 appointed and qualified. The NCCUSL Constitution requires that
 12 each commissioner be a lawyer. A deputy attorney general,
 13 assigned by the attorney general to coordinate the review and
 14 preparation of legislative bills, sits with the commission to
 15 provide technical assistance, as necessary, and is recognized as
 16 an associate member of Hawaii's delegation to the NCCUSL.

17 The work of the NCCUSL cannot be accomplished independently
 18 by a small state such as the State of Hawaii. Consequently, the
 19 continued support of and participation in the NCCUSL by this
 20 State is essential to continue the work of drafting and revising
 21 uniform laws concerning matters of state interest.

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1 The purpose of this Act is to provide the necessary funds
2 for Hawaii's contribution to the costs of the NCCUSL for fiscal
3 year 2006-2007 and for the costs of sending Hawaii's delegation
4 to the NCCUSL 2006 annual meeting.

5 SECTION 2. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$57,500 or so much
7 thereof as may be necessary for fiscal year 2006-2007 for
8 Hawaii's contribution to the costs of the National Conference of
9 Commissioners on Uniform State Laws (NCCUSL) and for the
10 registration and travel expenses for the commission to promote
11 uniform legislation of the department of the attorney general,
12 life members of the NCCUSL volunteering their services as part
13 of the Hawaii delegation, and the assigned deputy attorney
14 general to attend the 2006 annual meeting of the NCCUSL.

15 The sum appropriated shall be expended by the department of
16 the attorney general for the purposes of this Act.

17 SECTION 3. This Act shall take effect on July 1, 2006.

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Report Title:

Uniform Laws; Appropriation

Description:

Appropriates funds for travel expenses of the state commissioners to the National Conference of Commissioners on Uniform State Laws. (SD1)

