

JAN 25 2006

S.B. NO. 2959

A BILL FOR AN ACT

RELATING TO LABOR.

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

1 PART I

2 SECTION 1. This Act shall be known and may be cited as the
3 Workforce Development Act.

4 PART II

5 SECTION 2. The purpose of this part is to remove oversight
6 of the manpower and development training program from the state
7 department of labor and industrial relations and reestablish the
8 program within the community college system of the University of
9 Hawaii.

10 SECTION 3. Chapter 305, Hawaii Revised Statutes, is
11 amended by adding a new part to be appropriately designated and
12 to read as follows:

13 "PART . MANPOWER DEVELOPMENT AND TRAINING

14 §305-A Purpose. The purpose of this part is to establish
15 manpower development and training programs in the State of
16 Hawaii and to determine the extent to which the employment needs
17 of individuals can be met by either job training or a public
18 service job or a combination of both.



1 **§305-B Establishment of programs.** (a) There is
2 established within the community college system, manpower
3 development and training programs for the various industries in
4 the state. The training programs shall assist those unemployed
5 and underemployed persons who cannot reasonably be expected to
6 obtain suitable full-time employment without the benefit of
7 training. Instruction and training shall be provided by the
8 department of education, the community college system, both
9 campuses of the University of Hawaii, or other suitable
10 agencies. Where a need is indicated to overcome barriers to
11 possible training, the community college system, either on its
12 own or in cooperation with the various departments and agencies
13 of the state and county governments and private industry, may
14 arrange for transportation, child care, health care, and other
15 aids to employment. The community college system may also
16 formulate and implement a program providing useful public
17 service employment to unemployed persons other than public
18 assistance recipients.

19 (b) The department of human services may formulate and
20 implement a program providing useful public service employment
21 to public assistance recipients. Refusal to accept suitable
22 work as determined by the department of human services without



1 justifiable reasons shall render an unemployed or underemployed
2 recipient ineligible for public assistance.

3 **§305-C Contracts; public and private sectors.** (a) The
4 community college system may enter into contracts for manpower
5 development and training with the department of education, both
6 campuses of the University of Hawaii, or other public agencies.

7 (b) The community college system may enter into contracts
8 with private industry for manpower training and job placement of
9 unemployed persons within such private organizations. The
10 private employer shall be responsible for compensating such
11 persons the minimum wage and the State may assume the
12 differences in wages, if any, by determining the prevailing wage
13 of persons employed in similar positions in private industry
14 during the contract period for such manpower training.

15 (c) The community college system shall formulate standards
16 and adopt rules to carry out the purposes of this section.

17 **§305-D Compensation.** The State shall pay to each person
18 who is enrolled in a manpower development and training program a
19 weekly compensation equal to the average weekly benefit amount
20 provided under chapter 383. The State may pay to each person
21 who is employed on a public service employment project under



1 section 305-B the prevailing wage of persons employed in similar
2 public employment.

3 **§305-E Administration.** (a) The community college system
4 may plan and administer manpower development and training
5 programs under this part with the advice of the workforce
6 development council.

7 (b) The community college system shall employ persons in
8 each of the four counties for purposes of coordinating the
9 manpower development and training program for the community
10 college system within the particular county.

11 (c) The community college system shall process the payment
12 of weekly compensation as provided under this part.

13 **§305-F Funds.** The State shall provide funds to cover
14 training costs such as instructors' salaries, equipment, and
15 supplies. The State shall also provide funds to cover costs of
16 each coordinator position established under section 305-E.

17 **§305-G Type of training.** Training is to be undertaken for
18 those occupations for which there is reasonable expectation of
19 employment upon completion of training with priority given to
20 growth industries, including but not limited to electronics,
21 software, instrumentation, biotechnology, renewable energy,



1 telecommunications, computers, mariculture, aquaculture,
2 tropical agriculture, and Hawaiian natural products.

3 **§305-H New industry training program.** (a) There is
4 established the new industry training program, which shall be
5 administered by the community college system. Program moneys
6 may be used:

7 (1) To tailor training or retraining programs to meet the
8 needs of qualifying businesses;

9 (2) To reimburse instructors for valid and approved
10 expenditures in delivering instruction under the
11 program;

12 (3) To rent appropriate training facilities and equipment;

13 (4) To purchase or develop materials required to deliver
14 the instruction; and

15 (5) For any other training-related expenses of the
16 program.

17 (b) The community college system shall use the resources
18 of the University of Hawaii, the high technology development
19 corporation, and other educational and training resources in the
20 public and private sectors throughout the state as may be
21 appropriate to provide pre-employment, employment, or on-the-job
22 training for local residents hired by businesses that are



1 relocating to Hawaii or expanding their local operations. To
2 provide the training, the community college system may contract
3 with public agencies, including the various University of Hawaii
4 campuses, private educational institutions, nonprofit
5 corporations, or private entities.

6 **§305-I Eligibility requirements.** (a) To be eligible for
7 state-assisted training or retraining under section 305-H,
8 businesses shall:

- 9 (1) Be licensed to do business in Hawaii;
- 10 (2) Establish or expand operations in Hawaii; and
- 11 (3) Be engaged in research, development, manufacturing,
12 production, or delivery of services in growth
13 industries, including but not limited to electronics,
14 software, instrumentation, biotechnology, renewable
15 energy, telecommunications, computers, mariculture,
16 aquaculture, tropical agriculture, Hawaiian natural
17 products, and space applications, including
18 astronomical research.

19 (b) The community college system may adopt rules to
20 promote economic expansion within the state by further
21 identifying the businesses and industries that qualify for
22 services and the job positions and persons that are eligible for



1 training under this chapter and may consult with the department
2 of business, economic development, and tourism prior to issuing
3 these rules."

4 SECTION 4. Chapter 305, Hawaii Revised Statutes, is
5 amended by designating sections 305-1 to 305-5 as part I and
6 inserting a title before section 305-1 to read as follows:

7 **"PART I. GENERAL AND ADMINISTRATIVE PROVISIONS"**

8 SECTION 5. Chapter 394, Hawaii Revised Statutes, is
9 repealed.

10 SECTION 6. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$500,000 or so much
12 thereof as may be necessary for fiscal year 2006-2007 to hire
13 coordinators for the community college system manpower
14 development and training program.

15 The sum appropriated shall be expended by the community
16 college system for the purposes of this part.

17 PART III

18 SECTION 7. This part:

- 19 (1) Amends section 383-123, Hawaii Revised Statutes, to
20 allow Hawaii to use, for the purposes of this Act,
21 \$31,000,000 in Reed Act funds distributed in 2002



1 under the Temporary Extended Unemployment Compensation
2 Act of 2002, P.L. 107-147; and

3 (2) Appropriates Reed Act moneys to the community college
4 system of the University of Hawaii for the
5 administration of public employment offices within the
6 jurisdiction of the county workforce investment
7 boards, specifically to:

8 (A) Provide seed moneys to be used in consultation
9 with the local workforce investment boards of
10 each of the four counties, to develop and
11 implement plans that benefit employment service
12 programs operated by the counties;

13 (B) Allow the four local workforce investment boards
14 of each of the four counties to:

15 (i) Improve employer outreach and services;

16 (ii) Improve labor force pool expansion;

17 (iii) Improve capacity building; and

18 (iv) Support administration and service delivery
19 of employment and information services in
20 the one-stop operating system;

21 and



1 (3) Provide funds for any infrastructure and support costs
2 of county employment service programs.

3 SECTION 8. Section 383-123, Hawaii Revised Statutes, is
4 amended by amending subsections (b) and (c) to read as follows:

5 "(b) Administrative use. Moneys credited to the account
6 of this State in the unemployment trust fund by the Secretary of
7 the Treasury of the United States pursuant to section 903 of the
8 Social Security Act, as amended, may be requisitioned and used
9 for the payment of benefits and for the payment of expenses
10 incurred for the administration of this State's unemployment
11 compensation law and public employment offices pursuant to a
12 specific appropriation of the legislature; provided that the
13 expenses are incurred and the money is requisitioned after the
14 enactment of an appropriation law which:

15 (1) [~~specifies~~] Specifies the purposes for which the
16 moneys are appropriated and the amounts appropriated
17 therefor[];

18 (2) [~~limits~~] Limits the period within which the moneys may
19 be obligated to a period ending not more than two
20 years after the date of the enactment of the
21 appropriation law[]; and



1 (3) [~~limits~~] Limits the amount which may be obligated
2 [~~during a twelve-month period beginning on July 1 and~~
3 ~~ending on the next June 30~~] to an amount which does
4 not exceed the amount by which:

5 (A) [~~the~~] The aggregate of the amounts credited to
6 the account of this State pursuant to section 903
7 of the Social Security Act, as amended, [~~during~~
8 ~~the same twelve-month period and the thirty-four~~
9 ~~preceding twelve-month periods~~] exceeds,

10 (B) [~~the~~] The aggregate of the amounts obligated
11 pursuant to this subsection and charged against
12 the amounts credited to the account of this State
13 [~~during such thirty-five twelve-month periods.~~
14 ~~For the purposes of this subsection, amounts~~
15 ~~which are obligated for administration or paid~~
16 ~~out for benefits shall be charged against~~
17 ~~equivalent amounts which were first credited and~~
18 ~~which are not already so charged; except that no~~
19 ~~amount obligated for administration during a~~
20 ~~twelve-month period specified herein may be~~
21 ~~charged against any amount credited during such~~



1 ~~twelve-month period earlier than the thirty-~~
2 ~~fourth preceding such period].~~

3 Moneys credited to the account of this State pursuant to
4 section 903 of the Social Security Act, as amended, may not be
5 withdrawn or used except for the payment of benefits and for the
6 payment of expenses for the administration of this chapter
7 pursuant to this subsection.

8 The appropriation, obligation, and expenditure or other
9 disposition of [~~money~~] moneys appropriated under this subsection
10 shall be accounted for in accordance with standards established
11 by the United States Secretary of Labor. Moneys appropriated
12 for the payment of expenses of administration pursuant to this
13 subsection shall be requisitioned as needed for the payment of
14 obligations incurred under the law appropriating the moneys and,
15 upon requisition, shall be deposited in the employment security
16 administration fund from which such payments shall be made.
17 Moneys so deposited [~~shall~~], until expended, shall remain a part
18 of the unemployment compensation fund and, if it will not be
19 expended within one week after it is withdrawn from the
20 unemployment trust fund, shall be returned at the earliest
21 practical date to the Secretary of the Treasury of the United



1 States for credit to this State's account in the unemployment
2 trust fund.

3 (c) Notwithstanding subsection (b), moneys credited to the
4 State's account in federal fiscal years ending in 2000, 2001,
5 and 2002 shall be used solely for the administration of the
6 unemployment compensation program and are not subject to the
7 specific appropriation requirements of subsection (b) ~~[]~~; except
8 that moneys credited in calendar year 2002 with respect to P.L.
9 107-147 shall not be subject to the conditions of this
10 subsection or the two-year limitation requirement specified in
11 subsection (b)."

12 SECTION 9. There is appropriated from the unemployment
13 trust fund from moneys deposited pursuant to section 383-123(b)
14 the sum of \$15,000,000 or so much thereof as may be necessary
15 for fiscal year 2005-2006 and the same sum or so much thereof as
16 may be necessary for fiscal year 2006-2007 for the
17 administrative expenses of the employment security program as
18 administered by the county workforce investment boards.

19 The sums appropriated shall be expended by the community
20 college system for the purposes of this part.

21 SECTION 10. No funds appropriated under section 8 to the
22 community college system for use by the community college system



1 may be released by the governor to the community college system
2 until all funds appropriated by the legislature for the benefit
3 of the counties under section 8 have been timely, fully, and
4 completely released to the counties as intended by the
5 legislature.

6 The allotment system powers granted to the governor and the
7 executive branch by the legislature under part II of chapter 37,
8 Hawaii Revised Statutes, shall not apply to the appropriation of
9 federal Reed Act funds in section 8, as the appropriation of
10 federal moneys does not affect the solvency of the general fund.

11 SECTION 11. The community college system shall report back
12 to the legislature at least twenty days prior to the convening
13 of the regular session of 2007 on the status of the timely
14 release of funds appropriated for the benefit of the counties
15 under this part. The department shall make another report to
16 the legislature at least twenty days prior to the convening of
17 the regular session of 2008 on the status of the timely release
18 of the year two funds appropriated for the benefit of the
19 counties under this part. Where a delay in the release of these
20 funds is reported to the legislature by the community college
21 system, the community college system shall explain the delay to
22 the legislature and shall submit to the legislature, as soon as



1 practicable, a corrective action plan intended to ensure the
2 timely release of these funds.

3 PART IV

4 SECTION 12. All rights, powers, functions, and duties of
5 the state department of labor and industrial relations regarding
6 manpower development and training programs are transferred to
7 the community college system of the University of Hawaii.

8 All officers and employees whose functions are transferred
9 by this Act shall be transferred with their functions and shall
10 continue to perform their regular duties upon their transfer,
11 subject to the state personnel laws and this Act.

12 No officer or employee of the State having tenure shall
13 suffer any loss of salary, seniority, prior service credit,
14 vacation, sick leave, or other employee benefit or privilege as
15 a consequence of this Act, and such officer or employee may be
16 transferred or appointed to a civil service position without the
17 necessity of examination; provided that the officer or employee
18 possesses the minimum qualifications for the position to which
19 transferred or appointed; and provided that subsequent changes
20 in status may be made pursuant to applicable civil service and
21 compensation laws.



1 An officer or employee of the State who does not have
2 tenure and who may be transferred or appointed to a civil
3 service position as a consequence of this Act shall become a
4 civil service employee without the loss of salary, seniority,
5 prior service credit, vacation, sick leave, or other employee
6 benefits or privileges and without the necessity of examination;
7 provided that such officer or employee possesses the minimum
8 qualifications for the position to which transferred or
9 appointed.

10 If an office or position held by an officer or employee
11 having tenure is abolished, the officer or employee shall not
12 thereby be separated from public employment, but shall remain in
13 the employment of the State with the same pay and classification
14 and shall be transferred to some other office or position for
15 which the officer or employee is eligible under the personnel
16 laws of the State as determined by the head of the department or
17 the governor.

18 SECTION 13. All appropriations, records, equipment,
19 machines, files, supplies, contracts, books, papers, documents,
20 maps, and other personal property heretofore made, used,
21 acquired, or held by the state department of labor and
22 industrial relations relating to the functions transferred to



1 the community college system of the University of Hawaii shall
2 be transferred with the functions to which they relate.

3 SECTION 14. If any provision of this Act is found to be in
4 conflict with federal requirements that are a prescribed
5 condition for the allocation of federal funds to the State, the
6 conflicting provision of this Act shall be held inoperative
7 solely to the extent of the conflict with respect to the
8 agencies directly affected, and shall not affect the operation
9 of the remainder of this Act in its application to the agencies
10 concerned.

11 SECTION 15. In codifying the new part added to chapter
12 305, Hawaii Revised Statutes, by section 2 of this Act, the
13 revisor of statutes shall substitute appropriate section numbers
14 for letters used in designating the new sections in this Act.

15 SECTION 16. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

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

18

INTRODUCED BY: *Dan Kanani*

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~~[Signature]~~

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Report Title:

Workforce Development Act; University of Hawaii; Reed Act Funds; Appropriation

Description:

Transfers the Manpower Development and Training Program from the Department of Labor and Industrial Relations (DLIR) to the University of Hawaii Community College System. Appropriates Reed Act Funds to be expended by the community college system for administrative costs of county employment service programs. Appropriates funds for four county manpower development program coordinators.

