

JAN 25 2006

S.B. NO. 3046

A BILL FOR AN ACT

RELATING TO UNIFORM STATE LAWS.

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

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



1 preceding the annual meeting of the American Bar Association.
2 By 1912, 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 government for the
5 improvement of the law and for better interstate relationships.
6 Its sole purpose has been, and remains, service to state
7 government and improvement of state law.

8 The NCCUSL, as a state service organization, 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



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 utilized 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 large-
13 scale acts as the Uniform Commercial Code, the Uniform Probate
14 Code, and the Uniform Land Transactions Act took nearly a decade
15 to complete. No single state has the resources necessary to
16 duplicate this meticulous, careful nonpartisan effort. Without
17 the NCCUSL, nothing like the existing body of uniform state laws
18 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 Commissioner is paid for his or her services. He or
22 she receives only reimbursement for actual expenses incurred.



1 The NCCUSL estimates that each commissioner devotes
2 approximately 200 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. The average number is eighty-five of current uniform
17 and model acts adopted in all states. Hawaii has had one
18 hundred seventeen enactments of uniform acts, amendments to
19 uniform acts, and revised uniform acts. For every dollar
20 invested by each state, it has received very substantial and
21 valuable services.



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

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

19 The procedures for preparing an act are the result of long
20 experience with the creation of legislation. The NCCUSL
21 maintains a standing committee called the Scope and Program
22 Committee that considers new subject areas of state law as



1 potential for uniform or model acts. That committee studies
2 suggestions from many sources, including the organized bar,
3 state government, and private persons. If a subject area cannot
4 be adequately studied by the Scope and Program Committee, it is
5 likely to be given to a special study committee. Study
6 committees report back to the Scope and Program Committee.
7 Recommendations from the Scope and Program Committee go to the
8 NCCUSL Executive Committee and to the entire NCCUSL for approval
9 or disapproval, however the case may be.

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

18 Advisors and participating observers are solicited to
19 assist every drafting committee. The American Bar Association
20 appoints official advisors for every committee. Participating
21 observers may come from state government, from organizations
22 with interests and expertise in a subject, and from the ranks of



1 recognized experts in a subject. Advisors and participating
2 observers are invited to work with drafting committees and to
3 contribute comments. They do not make final decisions with
4 respect to the final contents of an act. Only the NCCUSL
5 members who compose the drafting committee may do this.

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

13 The NCCUSL is convened as a body once a year. It meets for
14 a period of eight to twelve days, usually in July or August. At
15 each annual meeting, during its working life, each drafting
16 committee must present its latest working draft to the whole
17 body of the NCCUSL. The entire text of each working draft is
18 actually read aloud -- a reading of a proposed uniform law is
19 not by title only, but is considered section by section either
20 by section title or word for word -- and debated during
21 proceedings of the committee of the whole. This scrutiny
22 continues from annual meeting to annual meeting until a final



1 draft satisfies the whole body of the commissioners. No
2 proposed uniform law becomes officially recognized as a uniform
3 act without at least two years' consideration, meaning every act
4 receives at least one interim reading at an annual meeting and a
5 final reading at a subsequent annual meeting. As noted
6 previously, there is often more than one interim reading and a
7 drafting process that exceeds two years in duration. A draft
8 becomes an official act by a majority vote of the states (one
9 vote to each state). The vote by states completes the drafting
10 work and the act is ready for consideration by the state
11 legislatures.

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

18 The governing body of the NCCUSL is the NCCUSL Executive
19 Committee, which is composed of the officers, certain ex officio
20 members, and members appointed by the President of the NCCUSL.
21 Certain activities are conducted by standing committees. As
22 mentioned above, the Committee on Scope and Program considers



1 all new subject areas for possible uniform acts. The
2 Legislative Committee superintends the relationships of the
3 NCCUSL to the state legislatures.

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

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

19 The NCCUSL maintains relations with several sister
20 organizations. Official liaison is maintained with the American
21 Bar Association, which contributes an amount each year to the
22 operation of the NCCUSL. Liaison is also maintained with the



1 American Law Institute, the Council of State Governments, and
2 the National Conference of State Legislatures on an ongoing
3 basis. Liaison and activities may be conducted with other
4 associations as interests and activities necessitate.

5 Hawaii created a commission to participate in the NCCUSL in
6 1911. The Hawaii commission to promote uniform legislation is
7 presently within the state department of the attorney general
8 and, pursuant to section 26-7, Hawaii Revised Statutes, is
9 advisory to the attorney general and to the legislature on
10 matters relating to the promotion of uniform legislation.

11 Pursuant to sections 3-1 and 26-7, Hawaii Revised Statutes, the
12 commission consists of five members, who are appointed by the
13 governor, with the advice and consent of the senate, for
14 staggered terms of four years and until their successors are
15 appointed and qualified. The NCCUSL Constitution requires that
16 each commissioner be a lawyer. A deputy attorney general,
17 assigned by the attorney general to coordinate the review and
18 preparation of legislative bills, sits with the commission to
19 provide technical assistance, as necessary, and is recognized as
20 an associate member of Hawaii's delegation to the NCCUSL.

21 The work of the NCCUSL cannot be accomplished independently
22 by a small state such as the State of Hawaii. Consequently, the



1 continued support of and participation in the NCCUSL by this
 2 State is essential to continue the work of drafting and revising
 3 uniform laws concerning matters of state interest. The purpose
 4 of this bill is to provide the necessary funds for Hawaii's
 5 contribution to the costs of the NCCUSL for fiscal year 2006-
 6 2007 and for the costs of sending Hawaii's delegation to the
 7 NCCUSL 2006 annual meeting.

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

18 SECTION 3. The sum appropriated shall be expended by the
 19 department of the attorney general for the purposes of this Act.

20 SECTION 4. This Act shall take effect on July 1, 2006.

21

INTRODUCED BY: 

Report Title:

Uniform Laws; Appropriation

SB. NO. 3046

Description:

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

