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# A BILL FOR AN ACT

RELATING TO ATTORNEYS.

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

1 SECTION 1. Section 28-8.3, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:

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

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

13 (2) By any court or judicial or legislative office of the  
14 State[+]. If the attorney general is requested to  
15 provide representation and determines and discloses a  
16 conflict that may require the attorney general to  
17 decline representation, the court, judicial, or  
18 legislative office of the State may waive the conflict



1           and require the attorney general to undertake the  
2           representation. If the attorney general then declines  
3           representation and the court, judicial, or legislative  
4           office of the State does not waive the conflict, the  
5           attorney general shall employ or retain an attorney on  
6           behalf thereof, subject to approval by the court,  
7           judicial, or legislative office;

8           (3) By the legislative reference bureau;

9           (4) By any compilation commission that may be constituted  
10           from time to time;

11           (5) By the real estate commission for any action involving  
12           the real estate recovery fund;

13           (6) By the contractors license board for any action  
14           involving the contractors recovery fund;

15           (7) By the trustees for any action involving the travel  
16           agency recovery fund;

17           (8) By the office of Hawaiian affairs;

18           (9) By the department of commerce and consumer affairs for  
19           the enforcement of violations of chapters 480 and 485;

20           (10) As grand jury counsel;

21           (11) By the Hawaiian home lands trust individual claims  
22           review panel;



- 1 (12) By the Hawaii health systems corporation, or its  
2 regional system boards, or any of their facilities;
- 3 (13) By the auditor;
- 4 (14) By the office of ombudsman;
- 5 (15) By the insurance division;
- 6 (16) By the University of Hawaii;
- 7 (17) By the Kahoolawe island reserve commission;
- 8 (18) By the division of consumer advocacy;
- 9 (19) By the office of elections;
- 10 (20) By the campaign spending commission;
- 11 (21) By the Hawaii tourism authority, as provided in  
12 section 201B-2.5; [~~o~~]
- 13 (22) By a department, in the event the attorney general,  
14 for reasons deemed by the attorney general good and  
15 sufficient, declines[~~r~~] to employ or retain an  
16 attorney for a department; provided that the governor  
17 thereupon waives the provision of this section[~~r~~]; and
- 18 (23) By a board, commission, or agency seeking  
19 representation in a matter other than one in which the  
20 board, commission, or agency is a defendant in  
21 litigation, if the attorney general, after written  
22 request for representation, declines to provide such



1           representation, in whole, or in part, based upon the  
2           conflict of interest.

3           (b) For purposes of this section, the term "department"  
4 includes any department, board, commission, agency, bureau, or  
5 officer of the State."

6           SECTION 2. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8           SECTION 3. This Act shall take effect on January 1, 2112.



**Report Title:**

Attorneys; State Government

**Description:**

Changes the procedure for determining representation of any court or judicial or legislative office by the attorney general. Also allows a board, commission, or agency to retain outside counsel under certain circumstances if the AG declines representation based on a conflict of interest. (HB3386 HD1)

