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# A BILL FOR AN ACT

RELATING TO GOVERNMENTAL RETENTION OF 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;

15           (3) By the legislative reference bureau;

16           (4) By any compilation commission that may be constituted  
17 from time to time;



- 1 (5) By the real estate commission for any action involving
- 2 the real estate recovery fund;
- 3 (6) By the contractors license board for any action
- 4 involving the contractors recovery fund;
- 5 (7) By the trustees for any action involving the travel
- 6 agency recovery fund;
- 7 (8) By the office of Hawaiian affairs;
- 8 (9) By the department of commerce and consumer affairs for
- 9 the enforcement of violations of chapters 480 and 485;
- 10 (10) As grand jury counsel;
- 11 (11) By the Hawaiian home lands trust individual claims
- 12 review panel;
- 13 (12) By the Hawaii health systems corporation, or its
- 14 regional system boards, or any of their facilities;
- 15 (13) By the auditor;
- 16 (14) By the office of ombudsman;
- 17 (15) By the insurance division;
- 18 (16) By the University of Hawaii;
- 19 (17) By the Kahoolawe island reserve commission;
- 20 (18) By the division of consumer advocacy;
- 21 (19) By the office of elections;
- 22 (20) By the campaign spending commission;



1 (21) By the Hawaii tourism authority, as provided in  
2 section 201B-2.5; or  
3 (22) By a department, [~~in the event~~] if the attorney  
4 general[~~, for reasons deemed by the attorney general~~  
5 ~~good and sufficient, declines, to~~] determines and  
6 discloses a conflict that requires the attorney  
7 general to decline representation. The department may  
8 waive the conflict and require the attorney general to  
9 represent the department. If the attorney general  
10 declines representation and the department does not  
11 waive the conflict, the attorney general shall employ  
12 or retain an attorney for [a] the department[+  
13 ~~provided that the governor thereupon waives the~~  
14 ~~provision of this section.]~~, subject to the  
15 department's approval.

16 (b) For purposes of this section the term "department"  
17 includes any department, board, commission, agency, bureau, [~~or~~]  
18 officer of the State[~~-~~], the legislature, and the judiciary."

19 SECTION 2. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 3. This Act shall take effect upon its approval.



**Report Title:**

Governmental Retention of Attorneys; Attorney General Conflict  
of Interest

**Description:**

Allows a department to retain an attorney if the attorney  
general declares a conflict of interest. (SD1)

