

JAN 18 2007

A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 SECTION 1. The legislature finds that the board of
2 education is faced with increasingly complex legal issues and
3 matters that require expedited attention and response. Having
4 the flexibility to hire independent legal counsel will expedite
5 the disposition of legal issues and cases related to the board
6 of education's purview, as well as the public schools and
7 libraries.

8 The purpose of this Act is to give the board of education
9 the authority to employ or retain its own legal counsel.

10 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§302A- Board attorneys. (a) The board may employ or
14 retain by contract one or more attorneys who are independent of
15 the department of the attorney general, to provide legal
16 services to the board, including:



1 (1) Representation of the board in civil actions to which
2 the board is a party, either directly or through the
3 acts or omissions of its members or employees;

4 (2) Providing advice and assistance to ensure the lawful
5 and efficient administration and operation of the
6 board; and

7 (3) Other legal services specified by the board.

8 (b) The board may establish the compensation of the
9 attorneys employed or retained pursuant to this section.
10 Attorneys employed or retained pursuant to this section shall be
11 exempt from chapters 76 and 89.

12 (c) Nothing in this section shall preclude the board from
13 requesting and securing legal services from the department of
14 the attorney general for the board or its members, upon mutual
15 agreement."

16 SECTION 3. Section 28-8.3, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) No department of the State other than the attorney
19 general may employ or retain any attorney, by contract or
20 otherwise, for the purpose of representing the State or the
21 department in any litigation, rendering legal counsel to the
22 department, or drafting legal documents for the department;



1 provided that the foregoing provision shall not apply to the
2 employment or retention of attorneys:

3 (1) By the public utilities commission, the labor and
4 industrial relations appeals board, and the Hawaii
5 labor relations board;

6 (2) By any court or judicial or legislative office of the
7 State;

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 any of its
- 2 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; [~~ex~~]
- 13 (22) By the board of education; or
- 14 ~~[(22)]~~ (23) By a department, in the event the attorney
- 15 general, for reasons deemed by the attorney general
- 16 good and sufficient, declines, to employ or retain an
- 17 attorney for a department; provided that the governor
- 18 thereupon waives the provision of this section."

19 SECTION 4. Section 28-8.3, Hawaii Revised Statutes, is
20 amended by amending subsection (c) to read as follows:

21 "(c) Every attorney employed by any department on a full-
22 time basis, except an attorney employed by the public utilities



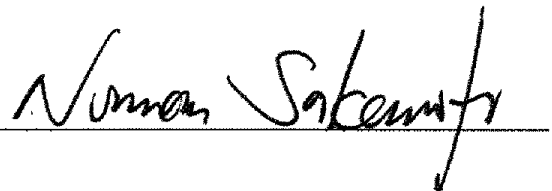
1 commission, the labor and industrial relations appeals board,
2 the Hawaii labor relations board, the office of Hawaiian
3 affairs, the Hawaii health systems corporation, the department
4 of commerce and consumer affairs in prosecution of consumer
5 complaints, insurance division, the division of consumer
6 advocacy, the University of Hawaii, the board of education, the
7 Hawaii tourism authority as provided in section 201B-2.5, the
8 Hawaiian home lands trust individual claims review panel, or as
9 grand jury counsel, shall be a deputy attorney general."

10 SECTION 5. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 6. This Act shall take effect upon its approval;
13 provided that the amendments made in sections 4 and 5 of this
14 Act shall not be affected by section 14 of Act 58, Session Laws
15 of Hawaii 2004, as amended by section 50 of Act 22, Session Laws
16 of Hawaii 2005, as amended by section 1 of Act 306, Session Laws
17 of Hawaii 2006.

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INTRODUCED BY:



Report Title:

Board of Education; Attorneys

Description:

Allows the board of education to employ or retain its own attorneys.

