
A BILL FOR AN ACT

RELATING TO THE BOARD OF 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 responses. The flexibility to
4 hire independent legal counsel would expedite the disposition of
5 legal issues and cases related to the purview of the board.

6 The purpose of this Act is to authorize the board of
7 education to employ or retain its own attorneys.

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

11 "§302A- Board attorneys. (a) The board may appoint or
12 retain by contract one or more attorneys who are independent of
13 the attorney general, to provide legal services for the board,
14 including:

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



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1 (2) Advice and assistance to ensure the lawful and
2 efficient administration and operation of the board;
3 and

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

5 The board may establish the compensation of the attorneys
6 appointed or retained by contract pursuant to this section.

7 Attorneys appointed or retained by contract shall be exempt from
8 chapters 76 and 89.

9 (b) Nothing in this section shall preclude the board from
10 requesting and securing legal services from the attorney general
11 and the department of the attorney general for the board or its
12 members, upon mutual agreement."

13 SECTION 3. Section 28-8.3, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By amending subsection (a) to read:

16 "(a) No department of the State other than the attorney
17 general may employ or retain any attorney, by contract or
18 otherwise, for the purpose of representing the State or the
19 department in any litigation, rendering legal counsel to the
20 department, or drafting legal documents for the department;
21 provided that the foregoing provision shall not apply to the
22 employment or retention of attorneys:



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- 1 (1) By the public utilities commission, the labor and
2 industrial relations appeals board, and the Hawaii
3 labor relations board;
- 4 (2) By any court or judicial or legislative office of the
5 State; provided that if the attorney general is
6 requested to provide representation to a court or
7 judicial office by the chief justice or the chief
8 justice's designee, or to a legislative office by the
9 speaker of the house of representatives and the
10 president of the senate jointly, and the attorney
11 general declines to provide such representation on the
12 grounds of conflict of interest, the attorney general
13 shall retain an attorney for the court, judicial, or
14 legislative office, subject to approval by the court,
15 judicial, or legislative office;
- 16 (3) By the legislative reference bureau;
- 17 (4) By any compilation commission that may be constituted
18 from time to time;
- 19 (5) By the real estate commission for any action involving
20 the real estate recovery fund;
- 21 (6) By the contractors license board for any action
22 involving the contractors recovery fund;



- 1 (7) By the trustees for any action involving the travel
2 agency recovery fund;
- 3 (8) By the office of Hawaiian affairs;
- 4 (9) By the department of commerce and consumer affairs for
5 the enforcement of violations of chapters 480 and
6 485A;
- 7 (10) As grand jury counsel;
- 8 (11) By the Hawaiian home lands trust individual claims
9 review panel;
- 10 (12) By the Hawaii health systems corporation, or its
11 regional system boards, or any of their facilities;
- 12 (13) By the auditor;
- 13 (14) By the office of ombudsman;
- 14 (15) By the insurance division;
- 15 (16) By the University of Hawaii;
- 16 (17) By the Kahoolawe island reserve commission;
- 17 (18) By the division of consumer advocacy;
- 18 (19) By the office of elections;
- 19 (20) By the campaign spending commission;
- 20 (21) By the Hawaii tourism authority, as provided in
21 section 201B-2.5; [~~or~~]
- 22 (22) By the board of education; or



1 [~~22~~] (23) By a department, in the event the attorney
2 general, for reasons deemed by the attorney general
3 good and sufficient, declines to employ or retain an
4 attorney for a department; provided that the governor
5 thereupon waives the provision of this section."

6 2. By amending subsection (c) to read:

7 "(c) Every attorney employed by any department on a full-
8 time basis, except an attorney employed by the public utilities
9 commission, the labor and industrial relations appeals board,
10 the Hawaii labor relations board, the office of Hawaiian
11 affairs, the Hawaii health systems corporation or its regional
12 system boards, the department of commerce and consumer affairs
13 in prosecution of consumer complaints, insurance division, the
14 division of consumer advocacy, the University of Hawaii, the
15 board of education, the Hawaii tourism authority as provided in
16 section 201B-2.5, the Hawaiian home lands trust individual
17 claims review panel, or as grand jury counsel, shall be a deputy
18 attorney general."

19 SECTION 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

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1 SECTION 5. This Act shall take effect on July 1, 2009;
2 provided that the amendments made to section 28-8.3, Hawaii
3 Revised Statutes, by this Act shall not be repealed when that
4 section is repealed and reenacted on June 30, 2010, by section
5 14 of Act 58, Session Laws of Hawaii 2004, as amended by section
6 50 of Act 22, Session Laws of Hawaii 2005, and as amended by
7 section 1 of Act 306, Session Laws of Hawaii 2006.

8

INTRODUCED BY: _____



JAN 21 2009



Report Title:

Board of Education; Attorneys

Description:

Authorizes the Board of Education to employ or retain its own attorneys.

