
A BILL FOR AN ACT

RELATING TO FUNDS.

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

PART I

1
2 SECTION 1. Section 231-85, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "[+]§231-85[+] **Identification of cash economy cases;**
5 **retention of funds.** Notwithstanding any law to the contrary,
6 each fiscal year, the special enforcement section may identify
7 any taxpayer, assessment, investigation, or collection matter as
8 a matter of the special enforcement section. [~~All revenues~~
9 ~~collected from special enforcement section matters shall be~~
10 ~~deposited into the tax administration special fund.]"~~

11 SECTION 2. Section 231-91, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) Any fine assessed under this section shall be a
14 matter of the special enforcement section under section 231-85
15 [~~and shall be retained and deposited into the tax administration~~
16 ~~special fund]."~~

17 SECTION 3. Section 235-20, Hawaii Revised Statutes, is
18 amended to read as follows:



1 " ~~[f]~~ §235-20 ~~[f]~~ **Comfort letters; authority to assess fees;**
2 **established.** The department may assess and collect a fee for
3 the issuance of any comfort letter of the department. ~~[All fees~~
4 ~~collected under this section shall be deposited into the tax~~
5 ~~administration special fund established under section 235-~~
6 ~~20.5.] "~~

7 SECTION 4. Section 235-110.9, Hawaii Revised Statutes, is
8 amended by amending subsection (f) to read as follows:

9 "(f) The department shall:

- 10 (1) Maintain records of the names and addresses of the
11 taxpayers claiming the credits under this section and
12 the total amount of the qualified investment costs
13 upon which the tax credit is based;
- 14 (2) Verify the nature and amount of the qualifying
15 investments;
- 16 (3) Total all qualifying and cumulative investments that
17 the department certifies; and
- 18 (4) Certify the amount of the tax credit for each taxable
19 year and cumulative amount of the tax credit.

20 Upon each determination made under this subsection, the
21 department shall issue a certificate to the taxpayer verifying
22 information submitted to the department, including qualifying



1 investment amounts, the credit amount certified for each taxable
2 year, and the cumulative amount of the tax credit during the
3 credit period. The taxpayer shall file the certificate with the
4 taxpayer's tax return with the department.

5 The director of taxation may assess and collect a fee to
6 offset the costs of certifying tax credits claims under this
7 section. ~~[All fees collected under this section shall be
8 deposited into the tax administration special fund established
9 under section 235-20.5.]~~"

10 SECTION 5. Section 235-110.91, Hawaii Revised Statutes, is
11 amended by amending subsection (e) to read as follows:

12 "(e) The department shall:

- 13 (1) Maintain records of the names and addresses of the
14 taxpayers claiming the credits under this section and
15 the total amount of the qualified research and
16 development activity costs upon which the tax credit
17 is based;
- 18 (2) Verify the nature and amount of the qualifying costs
19 or expenditures;
- 20 (3) Total all qualifying and cumulative costs or
21 expenditures that the department certifies; and



1 (4) Certify the amount of the tax credit for each taxable
2 year and cumulative amount of the tax credit.

3 Upon each determination made under this subsection, the
4 department shall issue a certificate to the taxpayer verifying
5 information submitted to the department, including the
6 qualifying costs or expenditure amounts, the credit amount
7 certified for each taxable year, and the cumulative amount of
8 the tax credit during the credit period. The taxpayer shall
9 file the certificate with the taxpayer's tax return with the
10 department.

11 The director of taxation may assess and collect a fee to
12 offset the costs of certifying tax credit claims under this
13 section. ~~[All fees collected under this section shall be
14 deposited into the tax administration special fund established
15 under section 235-20.5.]~~"

16 SECTION 6. Section 245-26, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Stamps shall be sold at their denominated values,
19 plus a stamp fee of 1.7 per cent of the denominated value of
20 each stamp sold, composed of the aggregate of:

21 (1) .2 per cent of the denominated value of the stamp to
22 pay for the cost to the State of providing the



1 stamps [~~with that amount to be deposited to the~~
 2 ~~credit of the department of taxation's cigarette tax~~
 3 ~~stamp administrative special fund~~]; and

4 (2) 1.5 per cent of the denominated value of the stamp to
 5 pay for the cost of enforcing the stamp tax, with that
 6 amount to be deposited to the credit of the department
 7 of the attorney general's tobacco enforcement special
 8 fund;

9 provided that the department by rule may modify the stamp fee to
 10 reflect actual costs incurred by the State in providing the
 11 stamps."

12 SECTION 7. Section 235-20.5, Hawaii Revised Statutes, is
 13 repealed.

14 [~~§235-20.5 Tax administration special fund, established.~~

15 ~~(a) There is established a tax administration special fund,~~
 16 ~~into which shall be deposited:~~

17 ~~(1) Fees collected under sections 235-20, 235-110.9, and~~
 18 ~~235-110.91,~~

19 ~~(2) Penalties collected under section 2 of Act 206,~~
 20 ~~Session Laws of Hawaii 2007; and~~

21 ~~(3) Revenues collected by the special enforcement section~~
 22 ~~pursuant to section 231-85; provided that in each~~



1 ~~fiscal year, of the total revenues collected by the~~
2 ~~special enforcement section, all revenues in excess of~~
3 ~~\$500,000 shall be deposited into the general fund.~~

4 ~~(b) The moneys in the fund shall be used for the following~~
5 ~~purposes:~~

6 ~~(1) Issuing comfort letters, letter rulings, written~~
7 ~~opinions, and other guidance to taxpayers;~~

8 ~~(2) Administering the tax credits under sections 235-110.9~~
9 ~~and 235-110.91; and~~

10 ~~(3) Administering the operations of the special~~
11 ~~enforcement section."]~~

12 SECTION 8. Section 245-41.5, Hawaii Revised Statutes, is
13 repealed.

14 ~~["~~§245-41.5~~ Cigarette tax stamp administrative special~~
15 ~~fund.~~ (a) ~~There is established in the state treasury the~~
16 ~~cigarette tax stamp administrative special fund, into which~~
17 ~~shall be deposited the allocated portion of the stamp fee~~
18 ~~designated to pay for the cost to the State of providing the~~
19 ~~stamps as provided by section 245-26.~~

20 ~~(b) Moneys in the cigarette tax stamp administrative~~
21 ~~special fund shall be administered by the department of taxation~~
22 ~~and shall be used:~~



1 of the state general fund, all unencumbered and unexpended
2 balances remaining in the fund.

3 (b) Prior to the regular session immediately preceding the
4 date of the repeal of any special or revolving fund, the
5 administrator of the fund shall submit to the legislature, the
6 budgetary request necessary to carry out the functions, duties,
7 and the operations of the program, activity, or undertaking
8 previously financed under the proceeds of the special or
9 revolving fund scheduled for repeal."

10 SECTION 11. Section 23-11, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+]§23-11[+] **New special or revolving funds.** (a) Within
13 five days after the deadline for the introduction of bills in
14 each legislative session, the clerks of each house of the
15 legislature shall transmit[7] to the legislative auditor for
16 analysis, copies of all legislative bills that were introduced
17 in their respective houses during that session that propose to
18 establish new special or revolving funds.

19 (b) The criteria to be used by the auditor in analyzing
20 each legislative bill shall include[7, but not be limited to,]
21 the extent to which the fund:

22 (1) Serves the purpose for which it is being created; and



1 (2) Reflects a clear link between the benefit sought and
 2 [~~changes~~] charges made upon the users or beneficiaries
 3 of the program, as opposed to serving primarily as a
 4 means to provide the program or users with an
 5 automatic means of support which is removed from the
 6 normal budget and appropriations process.

7 Each analysis shall set forth the probable effects of the
 8 proposed fund and shall also assess alternative forms of
 9 funding.

10 (c) No later than thirty days prior to the adjournment
 11 sine die of each legislative session, the legislative auditor
 12 shall submit the analysis of each transmitted legislative bill
 13 to each house of the legislature."

PART III

15 SECTION 12. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 13. This Act shall take effect on July 1, 2010.

18

INTRODUCED BY: *Sean W. Choy*
[Signature]

JAN 26 2010



Report Title:

Special and Revolving Funds; Repeal Provisions

Description:

Repeals the Tax Administration Special Fund and Cigarette Tax Stamp Administrative Special Fund. Establishes provisions for automatic repeal of certain special and revolving funds beginning on June 30, 2011. Makes clarifying amendments to provisions pertaining to new special or revolving funds.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

