

JAN 28 2009

S.B. NO. 1343

A BILL FOR AN ACT

RELATING TO FEES AND OTHER ASSESSMENTS.

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

1 SECTION 1. Section 26-9, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (1) to read:

4 "(1) Any law to the contrary notwithstanding, the director
5 of commerce and consumer affairs may:

6 (1) [~~Establish, increase, decrease, or repeal~~] impose and
7 collect fees [~~relating to any aspect of the~~] for the
8 registration, certification, licensure, or any other
9 administrative process for all laws within the
10 jurisdiction of the department [~~. Amendments to fee~~
11 ~~assessments shall be made pursuant to chapter 91~~];

12 (2) [~~Assess fees~~] The fee for copies in any form of media
13 of the computerized records of the business
14 registration division [~~or~~] shall be \$ _____ ; for
15 electronic access to the computerized information on a
16 one-time [~~or~~] basis shall be \$ _____ ; and for
17 electronic access on an on-going basis [~~. The fees~~



1 ~~charged for the copies or access may include billing~~
2 ~~service fees, network usage fees, and computer~~
3 ~~consultant fees. In adopting these fees, the director~~
4 ~~shall take into account the intent to make the~~
5 ~~division self-supporting. To this end, the fees may~~
6 ~~reflect the commercial value of the service or~~
7 ~~information provided. In the case of requests for~~
8 ~~records by a nonprofit organization, the director may~~
9 ~~reduce or waive the fees. This paragraph shall~~
10 ~~control in any instance where there is a conflict~~
11 ~~between this paragraph and any other statute,] shall~~
12 ~~be \$ _____ ; and~~

13 (3) ~~[Assess fees]~~ The fee for copies of consumer and
14 business educational publications prepared or issued
15 by the department ~~[-]~~ shall be \$ _____. Fees
16 collected under this paragraph shall be deposited into
17 the compliance resolution fund under subsection (o).
18 In the case of requests for copies by a nonprofit
19 organization, the director may reduce or waive the
20 fees. For purposes of this paragraph, "consumer and
21 business educational publications" does not include
22 copies of statutes or administrative rules.



1 The fees collected by the professional and vocational
2 licensing division and the business registration division shall
3 be deposited into the compliance resolution fund under
4 subsection (o).

5 The director may appoint program specialists, not subject
6 to chapter 76, to assist with the activities of the professional
7 and vocational licensing division."

8 2. By amending subsection (o) to read:

9 "(o) Every person licensed under any chapter within the
10 jurisdiction of the department of commerce and consumer affairs
11 and every person licensed subject to chapter 485A or registered
12 under chapter 467B shall pay upon issuance of a license, permit,
13 certificate, or registration a fee of \$ _____ and a
14 subsequent annual fee [~~to be determined by the director and~~
15 ~~adjusted from time to time to ensure that the proceeds, together~~
16 ~~with all other fines, income, and penalties collected under this~~
17 ~~section, do not surpass the annual operating costs of conducting~~
18 ~~compliance resolution activities required under this section.]~~
19 of \$ _____. The fees may be collected biennially or
20 pursuant to rules adopted under chapter 91, and shall be
21 deposited into the special fund established under this
22 subsection. Every filing pursuant to chapter 514E or section



1 485A-202(a)(26) shall be assessed, upon initial filing and at
2 each renewal period in which a renewal is required, a fee [that
3 shall be prescribed by rules adopted under chapter 91, and] of
4 \$ _____ that shall be deposited into the special fund
5 established under this subsection. Any unpaid fee shall be paid
6 by the licensed person, upon application for renewal,
7 restoration, reactivation, or reinstatement of a license, and by
8 the person responsible for the renewal, restoration,
9 reactivation, or reinstatement of a license, upon the
10 application for renewal, restoration, reactivation, or
11 reinstatement of the license. If the fees are not paid, the
12 director may deny renewal, restoration, reactivation, or
13 reinstatement of the license. [~~The director may establish,
14 increase, decrease, or repeal the fees when necessary pursuant
15 to rules adopted under chapter 91. The director may also
16 increase or decrease the fees pursuant to section 92-28.]~~

17 There is created in the state treasury a special fund to be
18 known as the compliance resolution fund to be expended by the
19 director's designated representatives as provided by this
20 subsection. Notwithstanding any law to the contrary, all
21 revenues, fees, and fines collected by the department shall be
22 deposited into the compliance resolution fund. Unencumbered



1 balances existing on June 30, 1999, in the cable television fund
2 under chapter 440G, the division of consumer advocacy fund under
3 chapter 269, the financial institution examiners' revolving
4 fund, section 412:2-109, the special handling fund, section 414-
5 13, and unencumbered balances existing on June 30, 2002, in the
6 insurance regulation fund, section 431:2-215, shall be deposited
7 into the compliance resolution fund. This provision shall not
8 apply to the drivers education fund underwriters fee, section
9 431:10C-115, insurance premium taxes and revenues, revenues of
10 the workers' compensation special compensation fund, section
11 386-151, the captive insurance administrative fund, section
12 431:19-101.8, the insurance commissioner's education and
13 training fund, section 431:2-214, the medical malpractice
14 patients' compensation fund as administered under section 5 of
15 Act 232, Session Laws of Hawaii 1984, and fees collected for
16 deposit in the office of consumer protection restitution fund,
17 section 487-14, the real estate appraisers fund, section 466K-1,
18 the real estate recovery fund, section 467-16, the real estate
19 education fund, section 467-19, the contractors recovery fund,
20 section 444-26, the contractors education fund, section 444-29,
21 the condominium management education fund, section 514A-131, and
22 the condominium education trust fund, section 514B-71. Any law



1 to the contrary notwithstanding, the director may use the moneys
2 in the fund to employ, without regard to chapter 76, hearings
3 officers and attorneys. All other employees may be employed in
4 accordance with chapter 76. Any law to the contrary
5 notwithstanding, the moneys in the fund shall be used to fund
6 the operations of the department. The moneys in the fund may be
7 used to train personnel as the director deems necessary and for
8 any other activity related to compliance resolution.

9 As used in this subsection, unless otherwise required by
10 the context, "compliance resolution" means a determination of
11 whether:

- 12 (1) Any licensee or applicant under any chapter subject to
13 the jurisdiction of the department of commerce and
14 consumer affairs has complied with that chapter;
- 15 (2) Any person subject to chapter 485A has complied with
16 that chapter;
- 17 (3) Any person submitting any filing required by chapter
18 514E or section 485A-202(a)(26) has complied with
19 chapter 514E or section 485A-202(a)(26);
- 20 (4) Any person has complied with the prohibitions against
21 unfair and deceptive acts or practices in trade or
22 commerce; or



1 (5) Any person subject to chapter 467B has complied with
 2 that chapter;
 3 and includes work involved in or supporting the above functions,
 4 licensing, or registration of individuals or companies regulated
 5 by the department, consumer protection, and other activities of
 6 the department.

7 The director shall prepare and submit an annual report to
 8 the governor and the legislature on the use of the compliance
 9 resolution fund. The report shall describe expenditures made
 10 from the fund including non-payroll operating expenses."

11 SECTION 2. Section 141-2.6, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "~~+~~§141-2.6~~-~~ Fees for aquaculture services. (a) The
 14 department of agriculture may ~~establish and assess fees~~
 15 ~~pursuant to chapter 91 for:~~

- 16 ~~(1) Aquatic]~~ impose and collect a fee of \$ _____ for
 17 animal and plant health diagnostic services~~[- and~~
- 18 ~~(2) Any]~~ .

19 (b) The department may impose and collect a fee of
 20 \$ _____ for items or expert services purchased from the
 21 department related to aquaculture planning, disease management,
 22 and the marketing of seafood products~~[-~~



1 ~~provided that the assessment of these fees does not violate any~~
2 ~~other provision of this chapter]."~~

3 SECTION 3. Section 142-98, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) The department of agriculture may [~~establish and~~
6 ~~assess~~] impose and collect fees [~~pursuant to chapter 91~~] of
7 \$ _____ for facilities usage, vaccination programs,
8 emergency transportation of quarantined animals, insecticides,
9 medication, and other goods and services deemed necessary and
10 provided by the department of agriculture in enforcing the
11 provisions of this chapter [~~, provided that the assessment of~~
12 ~~these fees does not violate any other provision of this~~
13 ~~chapter]."~~

14 SECTION 4. Section 149A-13.5, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) The department may [~~set~~] impose and collect fees of
17 \$ _____ for the educational services and training provided
18 under this section."

19 SECTION 5. Section 150A-48, Hawaii Revised Statutes, is
20 amended by amending subsection (d) to read as follows:



1 "(d) The department may [~~set~~] impose and collect fees[~~, by~~
2 ~~rule,~~] of \$ _____ for educational workshops for certified
3 importers or applicants for certification."

4 SECTION 6. Section 179D-8, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Except as otherwise provided by law, the board may
7 [~~set,~~] charge[~~,~~] and collect [~~administrative~~] penalties and
8 recover [~~administrative~~] fees and costs, including attorney's
9 fees and costs, or bring legal action to recover administrative
10 penalties, fees, and costs, including attorney's fees and costs,
11 or payment for damages or for the cost to correct damages
12 resulting from a violation of this chapter or any rule, order,
13 or condition adopted, issued, or required under this chapter.
14 The [~~administrative~~] penalty shall [~~not exceed \$25,000~~] be
15 \$ _____ per day of a violation, and each day during which
16 the violation continues shall constitute an additional,
17 separate, and distinct violation. The board shall [~~effectuate~~]
18 implement rules[~~,~~] and procedures[~~, and fee schedules~~] to carry
19 out the purposes of this section."

20 SECTION 7. Section 201-2.5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§201-2.5 Fees for services rendered and products
2 provided. (a) The department of business, economic
3 development, and tourism may [~~establish reasonable~~] impose and
4 collect fees of \$ _____ for services rendered and products
5 provided by the department. [~~The department shall maintain a~~
6 ~~reasonable relationship between the revenues derived from fees~~
7 ~~and the cost or fair value of services rendered and products~~
8 ~~provided.~~

9 ~~(b) The department shall adopt rules pursuant to chapter~~
10 ~~91 to carry out its responsibilities under this section.] "~~

11 SECTION 8. Section 201-18, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) The fund shall be administered by the department of
14 business, economic development, and tourism. Appropriations or
15 authorizations from the fund shall be expended by the
16 department. The department may contract with other public or
17 private entities for the provision of all or a portion of the
18 services necessary for the administration and implementation of
19 the loan fund program. The department may [~~set~~] impose and
20 collect fees or charges of \$ _____ for fund management and
21 technical site assistance provided under this section. The



1 department may adopt rules pursuant to chapter 91 to carry out
2 the purposes of this section."

3 SECTION 9. Section 201H-15, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) The corporation shall adopt rules under chapter 91
6 necessary to comply with federal and state requirements for
7 determining the amount of the tax credit allowed under section
8 42 of the Internal Revenue Code of 1986, as amended, and section
9 235-110.8. The corporation may [~~establish~~] impose and collect
10 [~~reasonable~~] fees of \$ _____ for [~~administrative expenses~~
11 ~~incurred in providing~~] the services required by this section [~~7~~
12 ~~including fees for processing developer applications for the~~
13 ~~credit~~]. All fees collected for administering these provisions,
14 including developer application fees, shall be used to cover the
15 administrative expenses of the corporation."

16 SECTION 10. Section 201H-36, Hawaii Revised Statutes, is
17 amended by amending subsection (d) to read as follows:

18 "(d) The corporation may [~~establish, revise,~~] charge, and
19 collect a [~~reasonable service fee, as necessary, in connection~~
20 ~~with its~~] fee of \$ _____ for approvals and certifications
21 under this section. The fees collected under this section shall
22 be deposited into the dwelling unit revolving fund."



1 SECTION 11. Section 201H-100, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§201H-100[+] Housing loan programs; fees. The
4 corporation may [~~establish, revise,~~] charge[~~7~~] and collect fees,
5 premiums, and charges [~~as necessary, reasonable, or convenient,~~]
6 of \$ _____ for its housing loan programs. The fees,
7 premiums, and charges shall be deposited into the housing loan
8 program revenue bond special fund established for the particular
9 housing loan program or part thereof from which the fees,
10 premiums, and charges are derived as determined by the
11 corporation."

12 SECTION 12. Section 201H-144, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) The corporation may [~~establish, revise,~~] charge[~~7~~]
15 and collect fees, premiums, and charges [~~as necessary,~~
16 ~~reasonable, or convenient in connection with its~~] of \$ _____
17 for its housing loan programs established under this subpart.
18 The fees, premiums, and charges shall be deposited into funds as
19 determined by the corporation."

20 SECTION 13. Section 205-4.1, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§205-4.1 Fees.** The commission may [~~establish reasonable~~]
2 charge and collect fees of \$ _____ for the filing of
3 boundary amendment petitions and petitions for intervention [~~to~~
4 ~~cover the cost of processing thereof~~] and for the reproduction
5 of maps and documents. The commission also may assess a
6 reasonable fee or require reimbursements to be made for court
7 reporter expenses, the inexcusable absence of a party from a
8 boundary amendment proceeding, and any other reimbursements for
9 hearing expenses as determined by the commission. Any fees
10 collected shall be deposited to the credit of the general fund."

11 SECTION 14. Section 206E-113, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§206E-113 Reserved housing loan programs; fees.** The
14 authority may [~~establish, revise,~~] charge[~~,~~] and collect fees,
15 premiums, and charges [~~as necessary, reasonable, or convenient,~~]
16 of \$ _____ for its reserved housing loan programs.

17 The fees, premiums, and charges shall be deposited into the
18 reserved housing loan program revenue bond special fund
19 established for the particular reserved housing loan program or
20 part thereof from which the fees, premiums and charges are
21 derived as determined by the authority."



1 SECTION 15. Section 261-7, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (b) to read:

4 "(b) Except as otherwise provided in this section, in each
5 case mentioned in subsection (a) (1), (2), (3), and (4), the
6 department may establish the terms and conditions of [~~the~~
7 ~~contract, lease, license, or other arrangement, and may fix the~~
8 ~~charges, rentals, or fees]~~ contracts, leases, licenses, or other
9 arrangements, including capital improvement projects approved by
10 the legislature, for the purpose of meeting the expenditures of
11 the statewide system of airports set forth in section 261-5(a).
12 The department may impose and collect fees of \$ _____ for
13 [~~the~~] privileges, services, or things granted, conferred, or
14 made available[~~, for the purpose of meeting the expenditures of~~
15 ~~the statewide system of airports set forth in section 261-5(a),~~
16 ~~which includes expenditures for capital improvement projects~~
17 ~~approved by the legislature. Such charges shall be reasonable~~
18 ~~and uniform for the same class of privilege, service, or~~
19 ~~thing]."~~

20 2. By amending subsection (e) to read:

21 "(e) The department may [~~fix and regulate, from time to~~
22 ~~time, reasonable]~~ impose and collect landing fees of \$ _____



1 for aircraft. [~~including the imposition of landing surcharges~~
2 ~~or differential landing fees, and other reasonable charges for~~
3 ~~the use and enjoyment of the airports and the services and~~
4 ~~facilities furnished by the department in connection therewith,~~
5 ~~including the establishment of a statewide system of airports~~
6 ~~landing fees, a statewide system of airports support charges,~~
7 ~~and joint use charges for the use of space shared by users,~~
8 ~~which fees and charges may vary among different classes of users~~
9 ~~such as foreign carriers, domestic carriers, inter island~~
10 ~~carriers, air taxi operators, helicopters, and such other~~
11 ~~classes as may be determined by the director, for the purpose of~~
12 ~~meeting the expenditures of the statewide system of airports set~~
13 ~~forth in section 261-5(a), which includes expenditures for~~
14 ~~capital improvement projects approved by the legislature.~~

15 ~~In setting airports rates and charges, including landing~~
16 ~~fees, the director may enter into contracts, leases, licenses,~~
17 ~~and other agreements with aeronautical users of the statewide~~
18 ~~system of airports containing such terms, conditions, and~~
19 ~~provisions as the director deems advisable.~~

20 ~~If the director has not entered into contracts, leases,~~
21 ~~licenses, and other agreements with any or fewer than all of the~~
22 ~~aeronautical users of the statewide system of airports prior to~~



1 ~~the expiration of an existing contract, lease, license, or~~
2 ~~agreement, the director shall set and impose rates, rentals,~~
3 ~~fees, and charges pursuant to this subsection without regard to~~
4 ~~the requirements of chapter 91, provided that a public~~
5 ~~informational hearing shall be held on the rates, rentals, fees,~~
6 ~~and charges.~~

7 ~~The director shall develop rates, rentals, fees, and~~
8 ~~charges in accordance with a residual methodology so that the]~~

9 The statewide system of airports shall be, and shall always
10 remain, self-sustaining. The rates, rentals, fees, and charges
11 shall be set at [~~such levels as~~] \$_____ to produce revenues
12 which, together with aviation fuel taxes, shall be at least
13 sufficient to meet the expenditures of the statewide system of
14 airports set forth in section 261-5(a), including expenditures
15 for capital improvement projects approved by the legislature,
16 and to comply with covenants and agreements with holders of
17 airport revenue bonds.

18 [~~The director may develop and formulate methodology in~~
19 ~~setting the various rates, rentals, fees, and charges imposed~~
20 ~~and may determine usage of space, estimate landed weights, and~~
21 ~~apply such portion of nonaeronautical revenue deemed appropriate~~



1 ~~in determining the rates, rentals, fees, and charges applicable~~
2 ~~to aeronautical users of the statewide system of airports.~~

3 ~~The rates, rentals, fees, and charges determined by the~~
4 ~~director in the manner set forth in this subsection shall be~~
5 ~~those charges payable by the aeronautical users for the periods~~
6 ~~immediately following the date of expiration of the existing~~
7 ~~contract, lease, license, or agreement. If fees are established~~
8 ~~pursuant to this section, the department shall prepare a~~
9 ~~detailed report on the circumstances and rates and charges that~~
10 ~~have been established, and shall submit the report to the~~
11 ~~legislature no later than twenty days prior to the convening of~~
12 ~~the next regular session.~~

13 ~~If a schedule of rates, rentals, fees, and charges~~
14 ~~developed by the director in accordance with this section is~~
15 ~~projected by the department to produce revenues which, together~~
16 ~~with aviation fuel taxes, will be in excess of the amount~~
17 ~~required to meet the expenditures of the statewide system of~~
18 ~~airports set forth in section 261-5(a), including expenditures~~
19 ~~for capital improvement projects approved by the legislature,~~
20 ~~and to comply with covenants and agreements with holders of~~
21 ~~airport revenue bonds, the department shall submit the schedule~~
22 ~~of rates, rentals, fees, and charges to the legislature prior to~~



1 ~~the convening of the next regular session of the legislature.~~
2 ~~Within forty five days after the convening of the regular~~
3 ~~session, the legislature may disapprove any schedule of rates,~~
4 ~~rentals, fees, and charges required to be submitted to it by~~
5 ~~this section by concurrent resolution. If no action is taken by~~
6 ~~the legislature within the forty five day period the schedule of~~
7 ~~rates, rentals, fees, and charges shall be deemed approved. If~~
8 ~~the legislature disapproves the schedule within the forty five~~
9 ~~day period, the director shall develop a new schedule of rates,~~
10 ~~rentals, fees, and charges in accordance with this section~~
11 ~~within seventy five days of the disapproval. Pending the~~
12 ~~development of a new schedule of rates, rentals, fees, and~~
13 ~~charges, the schedule submitted to the legislature shall remain~~
14 ~~in force and effect.]~~

15 Notwithstanding any other provision of law to the contrary,
16 the department may waive landing fees and other aircraft charges
17 established under this section at any airport owned or
18 controlled by the State whenever:

- 19 (1) The governor declares a state of emergency; and
20 (2) The department determines that the waiver of landing
21 fees and other charges for the aircraft is consistent



1 with assisting in the delivery of humanitarian relief
2 to disaster-stricken areas of the State."

3 3. By amending subsections (g) and (h) to read:

4 "(g) The department [~~from time to time~~] may [~~establish~~]
5 impose and collect a developmental [rates] rate for buildings
6 and land areas used exclusively for general aviation activities
7 [~~at rates not less than~~]. The rate shall be fifty per cent of
8 the fair market rentals of the buildings and land areas [and].
9 The department may restrict the extent of buildings and land
10 areas to be used.

11 (h) [~~Notwithstanding any laws to the contrary, the~~
12 ~~department may establish, levy, assess, and collect~~] The rental
13 motor vehicle customer facility charges, which shall be paid to
14 the department periodically as determined by the department[-],
15 shall be \$ _____. These charges shall be used to pay for,
16 or finance on a long-term basis where appropriate, the design,
17 planning, construction, and other uses of the rental motor
18 vehicle customer facility charges as set forth by the rental
19 motor vehicle customer facility charge special fund in section
20 261-5.6.

21 The rental motor vehicle customer facility charges shall be
22 levied, assessed, and collected from all rental motor vehicle



1 customers who benefit from the use of any type of rental motor
2 vehicle facility or service provided by the department at a
3 state airport.

4 All rental motor vehicle customer facility charges shall be
5 collected by lessors as defined in section 437D-3 and who
6 operate a car rental concession awarded by the department at a
7 state airport; provided that customers of lessors, as defined in
8 section 437D-3, who do not operate a car rental concession at a
9 state airport but whose customers benefit from the use of a car
10 rental facility or service at a state airport paid for by rental
11 motor vehicle customer facility charges, shall collect from such
12 car rental customers, rental motor vehicle customer facility
13 charges in an amount determined by the department that
14 represents a fair share of the cost and ongoing expenses
15 relating to customer use of such a facility or service. All
16 rental motor vehicle customer facility charges collected by such
17 lessor shall be paid to the department.

18 Notwithstanding any law to the contrary, the department may
19 contract the management, maintenance, and operations of the
20 facility and related services with airport concessions or their
21 designee that share in the use of a rental motor vehicle
22 customer facility at a state airport."



1 SECTION 16. Section 302A-408, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§302A-408 After-school and weekend programs.** The
4 department and the appropriate county agencies may establish and
5 regulate programs of after-school and weekend community-school
6 activities for children, including but not limited to child-care
7 programs, arts and crafts, hula, ukulele, and other recreational
8 projects, wherever feasible, at public school and public park
9 facilities. In addition to any appropriation of public funds,
10 ~~[reasonable fees established by the agencies operating the~~
11 ~~programs may be]~~ the fee collected by the department from
12 children enrolled~~[, in the furtherance of particular programs.]~~
13 shall be \$ _____. The appropriate agencies may obtain from
14 time to time the services of persons in a voluntary or unpaid
15 capacity, exempt from chapter 76, as may be necessary for
16 carrying out the purposes of this section, and may regulate
17 their duties, powers, and responsibilities when not otherwise
18 provided by law. Any person whose services have been so
19 accepted, while engaged in the performance of duty under this
20 section, shall be deemed a state employee or an employee of a
21 political subdivision, as the case may be, in determining the



1 liability of the State or the political subdivision for the
2 negligent acts of these persons."

3 SECTION 17. Section 302A-1149.5, Hawaii Revised Statutes,
4 is amended by amending subsection (c) to read as follows:

5 "(c) The [~~department may establish appropriate fees and~~
6 ~~other charges to be~~] fee assessed by the department to each
7 participant for the after-school plus program[~~-~~] shall be
8 \$ _____. The revenues from [~~these fees and charges~~] this
9 fee shall be deposited into the revolving fund to be used for
10 the program."

11 SECTION 18. Section 304A-2152, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) The [~~university may establish appropriate charges and~~
14 ~~fees~~] fee to individuals who are provided professional liability
15 coverage under this section[~~, the~~] shall be \$ _____. The
16 proceeds [~~of which~~] collected by the university under this
17 section shall be deposited in accounts and credited to the
18 University of Hawaii at Manoa malpractice special fund."

19 SECTION 19. Section 304A-2156, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) There is established the University of Hawaii
22 community services special fund. Except as otherwise provided



1 by law, all revenues, including interest, derived and collected
2 from the university's provision of public service programs shall
3 be deposited into the University of Hawaii community services
4 special fund. The university may [~~establish~~] impose and collect
5 fees [~~and charges~~] of \$ _____ for public service programs.
6 All revenues deposited into the University of Hawaii community
7 services special fund shall be used exclusively for the costs of
8 providing public service programs. The university may establish
9 accounts under the community services special fund to facilitate
10 the administration of this fund among the various campuses and
11 operating units of the University of Hawaii system. All
12 expenditures from this fund shall be subject to legislative
13 appropriation."

14 SECTION 20. Section 304A-2157, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) There is established the University of Hawaii
17 auxiliary enterprises special fund. Except as otherwise
18 provided by law, all revenues, including interest, derived and
19 collected from the university's provision of auxiliary services
20 shall be deposited into the University of Hawaii auxiliary
21 enterprises special fund and shall be expended solely for the
22 costs of providing these services. The university may



1 [establish] impose and collect fees [~~and charges~~] of \$
2 for the costs of providing these services. The university also
3 may transfer other funds into the University of Hawaii auxiliary
4 enterprises special fund to offset the cost of these services.
5 The university may establish accounts under the University of
6 Hawaii auxiliary enterprises special fund to facilitate the
7 administration of this fund among the various campuses and
8 operating units of the University of Hawaii system. All
9 expenditures from this fund shall be subject to legislative
10 appropriation."

11 SECTION 21. Section 304A-2274, Hawaii Revised Statutes, is
12 amended by amending its title and subsection (a) to read as
13 follows:

14 "~~[+]§304A-2274[+]~~ **University of Hawaii real property and**
15 **facilities use revolving fund.** (a) There is established the
16 University of Hawaii real property and facilities use revolving
17 fund into which shall be deposited all revenues collected by the
18 university for the use of university real property and
19 facilities, except as otherwise provided by law. The board of
20 regents may [establish] impose and collect prices, fees, and
21 charges, [~~including those~~] established by law, for the sale,
22 lease, or use of university real property and facilities, which



1 include land, buildings, grounds, furnishings, and equipment;
2 provided that the university shall comply with all statutory and
3 common law requirements in the disposition of ceded lands. [The
4 ~~board of regents shall be exempt from the public notice and~~
5 ~~public hearing requirements of chapter 91 in establishing and~~
6 ~~amending the fees and charges.] The university may establish
7 separate accounts within the revolving fund for major program
8 activities. Funds deposited into the revolving fund accounts
9 shall be expended to pay the costs of operating university
10 facilities, including maintenance, administrative expenses,
11 salaries, wages, and benefits of employees, contractor services,
12 supplies, security, furnishings, equipment, janitorial services,
13 insurance, utilities, and other operational expenses. Revenues
14 not expended as provided in this section may be transferred to
15 other university funds to be invested or expended for the
16 administrative or overhead costs of the university. All
17 expenditures from this revolving fund shall be subject to
18 legislative appropriation."~~

19 SECTION 22. Section 321-1, Hawaii Revised Statutes, is
20 amended by amending subsection (g) to read as follows:

21 "(g) The department may [~~establish charges~~] impose and
22 collect fees of \$ _____ for any of its services; provided



1 that the department shall not refuse to provide services to any
2 person due to the person's inability to pay the fee for the
3 service. The department, through the director, shall make an
4 annual report to the governor, showing in detail all its
5 expenditures and transactions, and such other information
6 regarding the public health as the department may deem of
7 special interest."

8 SECTION 23. Section 321-11.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§321-11.5 Establishment of fees.** (a) The department of
11 health, by rules adopted pursuant to chapter 91, may [~~establish~~
12 ~~reasonable~~] impose and collect fees of \$ _____ for the
13 issuance or renewal of licenses, permits, variances, and various
14 certificates required by law or by the department's rules. The
15 fees may include the cost of related examinations, inspections,
16 investigations, and reviews.

17 (b) All fees paid and collected pursuant to this section
18 and rules adopted in accordance with chapter 91 from facilities
19 seeking licensure or certification by the department of health,
20 including hospitals, nursing homes, home health agencies,
21 intermediate care facilities for the mentally retarded,
22 freestanding outpatient surgical facilities, adult day health



1 care centers, rural health centers, laboratories, adult
2 residential care homes, expanded adult residential care homes,
3 developmental disability domiciliary homes, assisted living
4 facilities, therapeutic living programs, and special treatment
5 facilities, shall be deposited into the office of health care
6 assurance special fund created under section 321-1.4. Any other
7 entities required by law to be licensed by the department of
8 health shall also be subject to [~~reasonable~~] fees of \$ _____
9 [~~established~~] imposed and charged by the department of health
10 [~~by rules adopted in accordance with chapter 91~~].

11 (c) Other than the fees collected under subsection (b),
12 all other fees collected under this section and section 321-15
13 shall be deposited into the environmental health education fund
14 established under section 321-27."

15 SECTION 24. Section 325-78, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) The department of health may [~~establish charges~~]
18 impose and collect fees of \$ _____ for any diagnostic,
19 medical, or treatment services relating to tuberculosis
20 treatment or control; provided that the department shall not
21 refuse to provide diagnostic, medical, or treatment services
22 relating to tuberculosis treatment or control to any patient due



1 to the patient's inability to pay for the service relating to
2 tuberculosis treatment or control. Voluntary payments,
3 contributions, or gifts for such purposes may be received, but
4 shall not be requested or solicited from any patient or any of
5 the patient's relatives[7] by the department."

6 SECTION 25. Section 328-96, Hawaii Revised Statutes, is
7 amended by amending subsection (d) to read as follows:

8 "(d) The department shall provide for distribution of the
9 Hawaii additions and deletions list and its revisions and
10 supplements, and the dissemination of notices of changes to the
11 compendia of therapeutically equivalent generic drug products to
12 all pharmacies in the State and to any other interested
13 individuals. The [~~department may establish fees to be charged~~
14 ~~to~~] fee for persons who receive the Hawaii additions and
15 deletions list and its revisions and supplements, and notices of
16 changes to the compendia of therapeutically equivalent generic
17 drug products[-] shall be \$ _____. [~~The amounts of the fees~~
18 ~~charged shall be approximately the same as the costs of~~
19 ~~producing and distributing the Hawaii additions and deletions~~
20 ~~list and its revisions and supplements, and the notices of~~
21 ~~changes to the compendia of therapeutically equivalent generic~~
22 ~~drug products.] "~~



1 SECTION 26. Section 342D-13, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]§342D-13 [.]~~ **Fees.** The director may ~~[establish~~
4 ~~reasonable]~~ impose and collect fees of \$ _____ for the
5 issuance of permits and variances to cover the cost of issuance
6 thereof and for the implementation and enforcement of the terms
7 and conditions of permits and variances (not including court
8 costs or other costs associated with any formal enforcement
9 action). The fees shall be deposited to the credit of the
10 general fund."

11 SECTION 27. Section 342D-86, Hawaii Revised Statutes, is
12 amended to read as follows:

13 " ~~[+]§342D-86 [.]~~ **Revolving fund; fees, interest, and**
14 **investment on accounts.** (a) The director may ~~[establish]~~
15 impose and collect fees of \$ _____ for loans, loan and bond
16 guarantees, debt purchase and refinancing, interest rate
17 subsidies, and other credit enhancement or liquidity support
18 issued or provided through the revolving fund.

19 (b) The director shall adopt rules pursuant to chapter 91
20 for the purposes of this part ~~[, including fees for loans and~~
21 ~~other financial assistance, and penalties for default of loan~~
22 ~~and other financial assistance repayments].~~



1 ~~[(c) If established, fees shall cover the costs of current~~
2 ~~activities, including the issuance of loans and other financial~~
3 ~~assistance, monitoring of loans and other financial assistance~~
4 ~~repayments and conditions, technical review of the planning and~~
5 ~~design documents, monitoring of construction activities,~~
6 ~~conducting operation and maintenance inspections of wastewater~~
7 ~~facilities, and other activities of the revolving fund pursuant~~
8 ~~to Title 33 United States Code sections 1381 to 1387.]~~

9 ~~[(d)]~~ (c) All moneys collected as fees shall be deposited
10 into an administrative expense account or accounts as needed to
11 comply with Title 33 United States Code section 1383(d)(7) and
12 shall be used exclusively to support the activities of the
13 revolving fund.

14 ~~[(e)]~~ (d) Moneys in the revolving fund shall be placed in
15 interest bearing investments or otherwise invested at the
16 discretion of the director until such time as the moneys may be
17 needed. All interest accruing from the investment of these
18 moneys shall be credited to the revolving fund; provided that
19 moneys which are pledged as security for payment of revenue
20 bonds may be invested as provided in section 342D-91."

21 SECTION 28. Section 342F-14, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§342F-14 Fees.** The director may [~~establish reasonable~~
2 impose and collect fees of \$ _____ for the issuance of
3 permits and variances [~~to cover the cost of issuance thereof and~~
4 ~~for the implementation and enforcement of the terms and~~
5 ~~conditions of permits and variances (not including court costs~~
6 ~~or other costs associated with any formal enforcement action)] .~~

7 All fees collected pursuant to this section shall be deposited
8 into the noise, radiation, and indoor air quality special fund
9 established pursuant to section 342P-7."

10 SECTION 29. Section 342F-14.5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~[+]§342F-14.5[+]~~ **Fees for notification.** The director may
13 [~~establish reasonable~~] impose and collect fees of \$ _____
14 for notifications and to cover the cost of implementation,
15 recordkeeping, and any necessary inspections to ascertain
16 compliance with the provisions of the state community notice
17 rules."

18 SECTION 30. Section 342H-13, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "~~[+]§342H-13[+]~~ **Fees.** The director may [~~establish~~
21 ~~reasonable~~] impose and collect fees of \$ _____ for the
22 issuance of permits and variances [~~to cover the cost of issuance~~



1 ~~thereof and for the implementation and enforcement of the terms~~
2 ~~and conditions of permits and variances (not including court~~
3 ~~costs or other costs associated with any formal enforcement~~
4 ~~action)]. The fees shall be deposited to the credit of the~~
5 ~~general fund."~~

6 SECTION 31. Section 342J-13, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§342J-13 Fees.** The director may ~~[establish reasonable]~~
9 impose and collect fees of \$ _____ for the issuance of
10 permits ~~[to cover the cost of issuance thereof and for the~~
11 ~~implementation and enforcement of the terms and conditions of~~
12 ~~permits (not including court costs or other costs associated~~
13 ~~with any formal enforcement action)]. The fees shall be~~
14 deposited to the credit of the general fund."

15 SECTION 32. Section 342L-14, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§342L-14 Fees.** ~~[Notwithstanding section 342L 36.5 to the~~
18 ~~contrary, the director may establish reasonable fees]~~ The
19 following fees shall apply:

20 (1) ~~[for the registration]~~ Registration of underground
21 storage tanks or tank systems, \$ _____ ;



1 (2) [~~for the issuance,~~] Issuance, renewal, and
 2 modification of permits and variances [~~to cover the~~
 3 ~~cost of issuance thereof and~~] \$ _____ ;

4 (3) [~~for the implementation]~~ Implementation and
 5 enforcement of the terms and conditions of permits and
 6 variances including inspections and necessary site
 7 visits (not including court costs or other costs
 8 associated with any formal enforcement action),
 9 \$ _____ ; and

10 (4) [~~for the review,~~] Review, evaluation, and approval of
 11 plans regarding release response activities[-],
 12 \$ _____. The fees shall be deposited to the
 13 credit of the general fund."

14 SECTION 33. Section 342P-28, Hawaii Revised Statutes, is
 15 amended to read as follows:

16 "**§342P-28 Fees.** The director may [~~establish reasonable~~]
 17 impose and charge fees of \$ _____ for the issuance of
 18 notifications, certificates, licenses, permits, and variances
 19 [~~to cover the cost of issuance thereof,~~] and for the
 20 implementation and enforcement of the terms and conditions of
 21 permits and variances not including court costs or other costs
 22 associated with any formal enforcement action. The fees shall



1 be deposited to the credit of the asbestos and lead abatement
2 special fund or noise, radiation, and indoor air quality special
3 fund."

4 SECTION 34. Section 348F-8, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "~~[+] §348F-8 [1]~~ **Fees.** The ~~[board may establish fees,~~
7 ~~pursuant to chapter 91,]~~ fee for applicants seeking state
8 credentialing of interpreters~~[-]~~ shall be \$ _____."

9 SECTION 35. Section 396-5.1, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) The director may ~~[establish]~~ impose and collect fees
12 ~~[pursuant to chapter 91]~~ of \$ _____ to be charged for the
13 following:

- 14 (1) Any aspect relating to the issuance of permits,
15 certificates, or licenses required by this chapter or
16 rule adopted by the director;
- 17 (2) Searching, reviewing, segregating, and providing
18 records pursuant to chapter 92F requests ~~[where such~~
19 ~~fees are not provided for under rules adopted by the~~
20 ~~office of information practices];~~
- 21 (3) The costs of training materials used in department
22 sponsored workshops; and



1 (4) The costs of public notices required for variances,
2 and public requests for adoption, amendment, or repeal
3 of rules."

4 SECTION 36. Section 412:2-105, Hawaii Revised Statutes, is
5 amended as follows:

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

7 " (a) The ~~[commissioner may charge an examination fee based~~
8 ~~upon the cost per hour per examiner]~~ examination fee for all
9 financial institutions examined by the commissioner or the
10 commissioner's staff ~~[.]~~ shall be \$ _____ per hour.
11 ~~[Effective July 1, 1995, the hourly fee shall be \$40. After~~
12 ~~July 1, 1996, the commissioner may establish, increase,~~
13 ~~decrease, or repeal the hourly fee when necessary pursuant to~~
14 ~~rules adopted in accordance with chapter 91.] "~~

15 2. By amending subsection (d) to read:

16 " (d) The commissioner ~~[, by rules adopted in accordance~~
17 ~~with chapter 91, may set reasonable fee amounts to be collected~~
18 ~~by the division in connection with its]~~ may impose and collect
19 fees of \$ _____ for regulatory functions, including, without
20 limitation, ~~[any fees for]~~ renewals, applications, licenses, and
21 charters. Unless otherwise provided by statute, all such fees



1 shall be deposited into the compliance resolution fund
2 established pursuant to section 26-9(o)."

3 SECTION 37. Section 412:2-109, Hawaii Revised Statutes, is
4 amended by amending subsection (g) to read as follows:

5 "(g) The commissioner [~~may~~] shall annually charge each
6 financial institution subject to examination by the commissioner
7 the sum of \$500 plus \$100 for each office, agency, and branch
8 office maintained by the financial institution, payment of which
9 shall be made before July 2 and thereafter credited to the
10 compliance resolution fund. [~~The commissioner may establish,
11 increase, decrease, or repeal this fee when necessary pursuant
12 to rules adopted in accordance with chapter 91.~~]"

13 SECTION 38. Section 412:3-102, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§412:3-102 Change of name.** To change its name, a Hawaii
16 financial institution shall file an application with the
17 commissioner and pay [~~the fees as the commissioner may
18 establish.~~] a fee of \$ _____. The application shall be
19 approved if the commissioner is satisfied that the new name
20 complies with this chapter and chapter 414. Any change of name
21 of a stock financial institution pursuant to this section shall
22 be effected in accordance with chapter 414. Any change of name



1 shall not affect a financial institution's rights, liabilities,
2 or obligations existing prior to the effective date thereof, and
3 no documents of transfer shall be necessary to preserve the
4 rights, liabilities, or obligations; provided that the
5 commissioner may require notice to be given to the public and
6 other governmental agencies."

7 SECTION 39. Section 440-13, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§440-13 License fees.** (a) License fees shall be paid
10 annually to the State by every applicant to whom a license is
11 issued to participate in the conduct of professional boxing in
12 any of the capacities set forth in this chapter: promoter,
13 physician, referee, judge, matchmaker, manager, timekeeper,
14 second, and professional boxer. The charge for a duplicate of a
15 license and all fees required by this chapter shall be [~~as~~
16 ~~provided in rules adopted by the director pursuant to chapter~~
17 ~~91]~~ \$ _____ and shall be deposited with the director to the
18 credit of the compliance resolution fund established pursuant to
19 section 26-9(o).

20 (b) The director [~~may establish a schedule of license fees~~
21 ~~for participation in amateur boxing contests, and]~~ may waive
22 payment of license fees for amateur boxing contests."



1 SECTION 40. Section 456-9, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The attorney general shall charge and collect the
4 following fees for:

5 (1) Issuing the original commission, \$40; and

6 (2) Renewing the commission, \$40.

7 ~~[Notwithstanding the foregoing, the attorney general may
8 establish and adjust fees pursuant to chapter 91.]~~"

9 SECTION 41. Section 457A-5, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~[§] 457A-5 [§]~~ **Fees.** The director may ~~[establish]~~ impose
12 and charge fees for services rendered to carry out the purposes
13 of this chapter."

14 SECTION 42. Section 516-124, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§516-124 Acquisition loan programs; fees.** The
17 corporation may ~~[establish, revise,]~~ charge and collect fees,
18 premiums, and charges ~~[as necessary, reasonable, or convenient,]~~
19 for its acquisition loan programs.

20 The fees, premiums, and charges shall be deposited into the
21 fee title acquisition loan program revenue bond special fund
22 established for the particular acquisition loan program or part



1 thereof from which the fees, premiums, and charges are derived
2 as determined by the corporation."

3 SECTION 43. Section 321-382, Hawaii Revised Statutes, is
4 repealed.

5 [~~"[§321-382] Fees. The director may establish fees by~~
6 ~~rules pursuant to chapter 91."~~]

7 SECTION 44. All fees established by the department of
8 commerce and consumer affairs, department of agriculture, board
9 of land and natural resources, department of business, economic
10 development and tourism, Hawaii housing finance and development
11 corporation, land use commission, Hawaii community development
12 authority, department of transportation, department of
13 education, University of Hawaii, board of regents of the
14 University of Hawaii, department of health, disability and
15 communication access board, commissioner of financial
16 institutions, and Attorney General by rules shall remain in
17 effect at the amounts or rates in effect on June 30, 2009, until
18 codified in the Hawaii Revised Statutes, statutorily amended, or
19 repealed; provided that each of the foregoing departments,
20 agencies, and offices, shall submit to the legislature, no later
21 than twenty days prior to the convening of the regular session
22 of 2010, recommended legislation that proposes to establish



1 these fees and set their amounts and rates in the Hawaii Revised
2 Statutes.

3 SECTION 45. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 46. This Act shall take effect on July 1, 2009.

6

INTRODUCED BY:

Bruno Kolb

~~_____~~
~~_____~~

D. J. Gil

Yon Hui

Anna Mercedes K.

Jim

A. Kala Gosh



Report Title:

Administratively Established Fees; Fees and Other Assessments

Description:

Removes administrative agencies' authority to establish fees and replaces administratively established fees with statutory fees.

