
A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,
AND TOURISM.

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

1 SECTION 1. The legislature finds that the department of
2 business, economic development, and tourism provides services
3 and programs that promote economic development. Thus, the
4 legislature finds that the continued operation of the department
5 is imperative for the recovery of the economy of the State.

6 The legislature also finds that fees for business- and
7 commerce-related permits and authorizations have a nexus to the
8 business climate and economic performance of the State. The
9 legislature believes, in general, that the success of the
10 department of business, economic development, and tourism in
11 promoting the economy logically should result in the increase of
12 the business activities of most fee payers. Consequently, the
13 legislature finds that imposing a surcharge upon certain
14 business- and commerce-related permit fees to fund the
15 department of business, economic development, and tourism is
16 appropriate.

17 The purpose of this Act is to:



- 1 (1) Establish a new special fund for the operation of the
- 2 department of business, economic development, and
- 3 tourism;
- 4 (2) Impose a surcharge on certain business- and commerce-
- 5 related fees; and
- 6 (3) Require the surcharge revenues and \$2,000,000 of
- 7 moneys in the compliance resolution fund of the
- 8 department of commerce and consumer affairs to be
- 9 deposited into the special fund.

10 SECTION 2. Chapter 92, Hawaii Revised Statutes, is amended
 11 by adding a new section to be appropriately designated and to
 12 read as follows:

13 "§92- Surcharge upon fees for certain business- and
 14 commerce-related services by certain departments. (a)

15 Beginning July 1, 2011, and ending on June 30, 2015, there shall
 16 be added a surcharge of \$20 upon every fee charged by:

17 (1) The department of commerce and consumer affairs for
 18 the:

19 (A) Application, issuance, renewal, or reissuance of
 20 a license, permit, or other authorization for a
 21 profession, business, or occupation;



- 1 (B) Examination or audit of a person engaged in a
- 2 profession, business, or occupation;
- 3 (C) Filing, registration, or renewal of a corporate
- 4 or other business document;
- 5 (D) Application for or registration of a trade name,
- 6 trademark, or service mark; or
- 7 (E) Tax on insurance premiums;
- 8 (2) The public utilities commission pertaining to the
- 9 regulation of a public utility or the filing of any
- 10 document; provided that this paragraph shall not apply
- 11 to a telecommunications carrier that is the carrier of
- 12 last resort;
- 13 (3) The department of labor and industrial relations
- 14 pertaining to the regulation of a hoisting machine
- 15 operator, blaster or pyrotechnics operator, safety and
- 16 health professional, boiler installer or installation,
- 17 and elevator mechanic or installation; and
- 18 (4) The department of taxation for the application,
- 19 issuance, renewal, or reissuance of a license, permit,
- 20 certificate, or other authorization required under the
- 21 following taxes:
- 22 (A) General excise;



- 1 (B) Transient accommodations;
- 2 (C) Rental motor vehicle and tour vehicle;
- 3 (D) Liquor;
- 4 (E) Cigarette and tobacco;
- 5 (F) Liquid fuel;
- 6 (G) Public service company; and
- 7 (H) Bank and financial corporation.

8 For the purpose of this section, "fee" means a monetary
9 amount charged by a department for a service specified in this
10 subsection, no matter the nomenclature used to describe the
11 amount charged.

12 (b) Each department subject to subsection (a) shall impose
13 and collect the appropriate surcharge and transmit the surcharge
14 revenues to the director of finance for deposit into the
15 department of business, economic development, and tourism
16 operation special fund established under section 201- . The
17 director of finance shall establish the deadlines by which the
18 departments shall transmit the surcharge revenues to the
19 director.

20 (c) No surcharge shall be added to the following:

- 21 (1) Any service for which no fee is charged;
- 22 (2) Any fine for a violation of a state law;

- 1 (3) Any fee for the dissemination or copying of a public
2 record; or
- 3 (4) Any fee charged to a state, county, or federal
4 agency."

5 SECTION 3. Chapter 201, Hawaii Revised Statutes, is
6 amended by adding a new section to part I to be appropriately
7 designated and to read as follows:

8 "§201- Department of business, economic development,
9 and tourism operation special fund. (a) Beginning July 1,
10 2011, and ending on June 30, 2015, there is established, within
11 the treasury of the State, the department of business, economic
12 development, and tourism operation special fund.

13 (b) Moneys required to be deposited into the special fund
14 under sections 92- and 26-9(o) shall be so deposited by the
15 director of finance.

16 Any interest earned on moneys in the special fund shall be
17 a realization of the general fund.

18 (c) Moneys in the special fund shall be expended for the
19 operations of the department, including the salary and fringe
20 benefit costs of department personnel.

21 (d) If, on June 30, 2015, there are unexpended and
22 unencumbered moneys remaining in the special fund, the director



1 of finance shall transfer those moneys to the general fund on
2 July 1, 2015."

3 SECTION 4. Section 26-9, Hawaii Revised Statutes, is
4 amended by amending subsection (o) to read as follows:

5 "(o) Every person licensed under any chapter within the
6 jurisdiction of the department of commerce and consumer affairs
7 and every person licensed subject to chapter 485A or registered
8 under chapter 467B shall pay upon issuance of a license, permit,
9 certificate, or registration a fee and a subsequent annual fee
10 to be determined by the director and adjusted from time to time
11 to ensure that the proceeds, together with all other fines,
12 income, and penalties collected under this section, do not
13 surpass the annual operating costs of conducting compliance
14 resolution activities required under this section. The fees may
15 be collected biennially or pursuant to rules adopted under
16 chapter 91, and shall be deposited into the special fund
17 established under this subsection. Every filing pursuant to
18 chapter 514E or section 485A-202(a)(26) shall be assessed, upon
19 initial filing and at each renewal period in which a renewal is
20 required, a fee that shall be prescribed by rules adopted under
21 chapter 91, and that shall be deposited into the special fund
22 established under this subsection. Any unpaid fee shall be paid



1 by the licensed person, upon application for renewal,
2 restoration, reactivation, or reinstatement of a license, and by
3 the person responsible for the renewal, restoration,
4 reactivation, or reinstatement of a license, upon the
5 application for renewal, restoration, reactivation, or
6 reinstatement of the license. If the fees are not paid, the
7 director may deny renewal, restoration, reactivation, or
8 reinstatement of the license. The director may establish,
9 increase, decrease, or repeal the fees when necessary pursuant
10 to rules adopted under chapter 91. The director may also
11 increase or decrease the fees pursuant to section 92-28.

12 There is created in the state treasury a special fund to be
13 known as the compliance resolution fund to be expended by the
14 director's designated representatives as provided by this
15 subsection. Notwithstanding any law to the contrary, all
16 revenues, fees, and fines collected by the department shall be
17 deposited into the compliance resolution fund. Unencumbered
18 balances existing on June 30, 1999, in the cable television fund
19 under chapter 440G, the division of consumer advocacy fund under
20 chapter 269, the financial institution examiners' revolving
21 fund, section 412:2-109, the special handling fund, section 414-
22 13, and unencumbered balances existing on June 30, 2002, in the



1 insurance regulation fund, section 431:2-215, shall be deposited
2 into the compliance resolution fund. This provision shall not
3 apply to the drivers education fund underwriters fee, sections
4 431:10C-115 and 431:10G-107, insurance premium taxes and
5 revenues, revenues of the workers' compensation special
6 compensation fund, section 386-151, the captive insurance
7 administrative fund, section 431:19-101.8, the insurance
8 commissioner's education and training fund, section 431:2-214,
9 the medical malpractice patients' compensation fund as
10 administered under section 5 of Act 232, Session Laws of Hawaii
11 1984, and fees collected for deposit in the office of consumer
12 protection restitution fund, section 487-14, the real estate
13 appraisers fund, section 466K-1, the real estate recovery fund,
14 section 467-16, the real estate education fund, section 467-19,
15 the contractors recovery fund, section 444-26, the contractors
16 education fund, section 444-29, and the condominium education
17 trust fund, section 514B-71.

18 Any law to the contrary notwithstanding, the director may
19 use the moneys in the fund to employ, without regard to chapter
20 76, hearings officers and attorneys. All other employees may be
21 employed in accordance with chapter 76. Any law to the contrary
22 notwithstanding, the moneys in the fund shall be used to fund

1 the operations of the department[-]; provided that, for the
2 period beginning July 1, 2011, and ending on June 30, 2015, by
3 January 1 of each fiscal year, or as soon thereafter as
4 possible, the sum of \$2,000,000 shall be deposited with the
5 director of finance to the credit of the department of business,
6 economic development, and tourism operation special fund
7 established under section 201- ; provided further that, for
8 the period beginning July 1, 2011, and ending on June 30, 2015,
9 the moneys deposited to the credit of the department of
10 business, economic development, and tourism special fund shall
11 not be derived from regulatory fees and shall instead be derived
12 from taxes, penalties, and other levies set at statutorily
13 prescribed rates or amounts. The moneys in the fund may be used
14 to train personnel as the director deems necessary and for any
15 other activity related to compliance resolution.

16 As used in this subsection, unless otherwise required by
17 the context, "compliance resolution" means a determination of
18 whether:

19 (1) Any licensee or applicant under any chapter subject to
20 the jurisdiction of the department of commerce and
21 consumer affairs has complied with that chapter;



1 (2) Any person subject to chapter 485A has complied with
2 that chapter;

3 (3) Any person submitting any filing required by chapter
4 514E or section 485A-202(a)(26) has complied with
5 chapter 514E or section 485A-202(a)(26);

6 (4) Any person has complied with the prohibitions against
7 unfair and deceptive acts or practices in trade or
8 commerce; or

9 (5) Any person subject to chapter 467B has complied with
10 that chapter;

11 and includes work involved in or supporting the above functions,
12 licensing, or registration of individuals or companies regulated
13 by the department, consumer protection, and other activities of
14 the department.

15 The director shall prepare and submit an annual report to
16 the governor and the legislature on the use of the compliance
17 resolution fund. The report shall describe expenditures made
18 from the fund including non-payroll operating expenses."

19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

H.B. NO. 782

1 SECTION 6. This Act shall take effect on July 1, 2011.

2

INTRODUCED BY: Calvin K. Ray

JAN 21 2011



Report Title:

DBEDT; Operation Special Fund

Description:

Establishes the department of business, economic development, and tourism operation special fund to support operations. Imposes a temporary surcharge on certain fees charged by certain departments for deposit into fund. Requires deposit of \$2,000,000 annually from the compliance resolution fund into the special fund.

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

