

1 contracts and agreements for a period of up to five
2 years, subject to the availability of funds; provided
3 further that the department may enter into agreements
4 for the use of the convention center facility for a
5 period of up to ten years;

6 (4) Make and alter bylaws for its organization and
7 internal management;

8 (5) Unless otherwise provided in this chapter, adopt rules
9 in accordance with chapter 91 with respect to its
10 projects, operations, properties, and facilities;

11 (6) Through its director, represent the department in
12 communications with the governor and the legislature;

13 (7) Through its director, provide for the appointment of
14 officers, agents, a sports coordinator, and employees,
15 prescribing their duties and qualifications, and
16 fixing their salaries, without regard to chapters 76
17 and 78, if there is no anticipated revenue shortfall
18 in the tourism special fund and funds have been
19 appropriated by the legislature and allotted as
20 provided by law;

21 (8) Through its director, purchase supplies, equipment, or
22 furniture;



- 1 (9) Through its director, allocate the space or spaces
2 that are to be occupied by the department and
3 appropriate staff;
- 4 (10) Through its director, engage the services of qualified
5 persons to implement the State's tourism marketing
6 plan or portions thereof as determined by the
7 department;
- 8 (11) Through its director, engage the services of
9 consultants on a contractual basis for rendering
10 professional and technical assistance and advice;
- 11 (12) Procure insurance against any loss in connection with
12 its property and other assets and operations in
13 amounts and from insurers as it deems desirable;
- 14 (13) Contract for or accept revenues, compensation,
15 proceeds, and gifts or grants in any form from any
16 public agency or any other source, including any
17 revenues or proceeds arising from the operation or use
18 of the convention center;
- 19 (14) Develop, coordinate, and implement state policies and
20 directions for tourism and related activities taking
21 into account the economic, social, and physical
22 impacts of tourism on the State and its natural



1 resources infrastructure; provided that the department
2 shall support the efforts of other state and county
3 departments or agencies to manage, improve, and
4 protect Hawaii's natural environment and areas
5 frequented by visitors;

6 (15) Have a permanent, strong focus on marketing and
7 promotion;

8 (16) Conduct market development-related research as
9 necessary;

10 (17) Coordinate all agencies and advise the private sector
11 in the development of tourism-related activities and
12 resources;

13 (18) Work to eliminate or reduce barriers to travel to
14 provide a positive and competitive business
15 environment, including coordinating with the
16 department of transportation on issues affecting
17 airlines and air route development;

18 (19) Market and promote sports-related activities and
19 events;

20 (20) Coordinate the development of new products with the
21 counties and other persons in the public sector and
22 private sector, including the development of sports,



- 1 culture, health and wellness, education, technology,
2 agriculture, and nature tourism;
- 3 (21) Establish a public information and educational program
4 to inform the public of tourism and tourism-related
5 problems;
- 6 (22) Encourage the development of tourism educational,
7 training, and career counseling programs;
- 8 (23) Establish a program to monitor, investigate, and
9 respond to complaints about problems resulting
10 directly or indirectly from the tourism industry and
11 taking appropriate action as necessary;
- 12 (24) Develop and implement emergency measures to respond to
13 any adverse effects on the tourism industry;
- 14 (25) Set and collect rents, fees, charges, or other
15 payments for the lease, use, occupancy, or disposition
16 of the convention center facility without regard to
17 chapter 91;
- 18 (26) Notwithstanding chapter 171, acquire, lease as lessee
19 or lessor, own, rent, hold, and dispose of the
20 convention center facility in the exercise of its
21 powers and the performance of its duties under this
22 chapter; and



1 (27) Acquire by purchase, lease, or otherwise, and develop,
2 construct, operate, own, manage, repair, reconstruct,
3 enlarge, or otherwise effectuate, either directly or
4 through developers, a convention center facility.

5 (b) The department shall be responsible for:

6 (1) Promoting, marketing, and developing the tourism
7 industry in the State;

8 (2) Arranging for the conduct of research through
9 contractual services with the University of Hawaii or
10 any agency or other qualified persons concerning
11 social, economic, and environmental aspects of tourism
12 development in the State; provided that, where public
13 disclosure of information gathered by the department
14 may place businesses at a competitive disadvantage and
15 impair or frustrate the department's ability to obtain
16 information for a legitimate government function, the
17 department may withhold from public disclosure
18 competitively sensitive information, including:

19 (A) Completed survey and questionnaire forms;

20 (B) Coding sheets; and

21 (C) Database records of the information;



- 1 (3) Providing technical or other assistance to agencies
2 and private industry upon request;
- 3 (4) Creating a vision and developing a long-range
4 strategic plan for tourism in Hawaii; and
- 5 (5) Reviewing annually the expenditure of public funds by
6 any visitor industry organization with which the
7 department contracts to perform tourism promotion,
8 marketing, and development and making recommendations
9 necessary to ensure the effective use of the funds for
10 the development of tourism. The department shall also
11 prepare annually a report of expenditures, including
12 descriptions and evaluations of programs funded,
13 together with any recommendations the department may
14 make and shall submit the report to the governor and
15 the legislature as part of the department's annual
16 report.
- 17 (c) The department shall do any and all things necessary
18 to carry out its purposes, to exercise the powers and
19 responsibilities given in this chapter, and to perform other
20 functions required or authorized by law.



1 §201-C Tourism special fund. (a) There is established
2 the tourism special fund to be administered by the department
3 into which shall be deposited:

4 (1) A portion of the revenues from any transient
5 accommodations tax, as provided by section 237D-6.5;

6 (2) Appropriations by the legislature to the tourism
7 special fund; and

8 (3) Gifts, grants, and other funds accepted by the
9 department.

10 (b) Moneys in the tourism special fund may be:

11 (1) Placed in interest-bearing accounts; provided that the
12 depository in which the money is deposited furnishes
13 security as provided in section 38-3; or

14 (2) Invested by the department until such time as the
15 moneys may be needed; provided that the department
16 shall limit its investments to those listed in section
17 36-21.

18 All interest accruing from the investment of these moneys shall
19 be credited to the tourism special fund.

20 (c) Until June 30, 2015, pursuant to Act 102, Session Laws
21 of Hawaii 2010, moneys in the tourism special fund shall be used



1 by the department for the purposes of this chapter; provided
2 that:

3 (1) Not more than five per cent of this amount shall be
4 used for administrative expenses, including \$15,000
5 for a protocol fund to be expended at the discretion
6 of the director; and

7 (2) At least \$1,000,000 shall be made available to support
8 efforts to manage, improve, and protect Hawaii's
9 natural environment and areas frequented by visitors.

10 **§201-D Convention center enterprise special fund. (a)**

11 There is established the convention center enterprise special
12 fund, into which shall be deposited:

13 (1) A portion of the revenues from the transient
14 accommodations tax, as provided by section 237D-6.5;

15 (2) All revenues or moneys derived from the operations of
16 the convention center to include all revenues from the
17 food and beverage service, all revenues from the
18 parking facilities or from any concession, and all
19 revenues from the sale of souvenirs, logo items, or
20 any other items offered for purchase at the convention
21 center;



1 (3) Private contributions, interest, compensation, gross
2 or net revenues, proceeds, or other moneys derived
3 from any source or for any purpose arising from the
4 use of the convention center facility; and

5 (4) Appropriations by the legislature, including any
6 transfers from the tourism special fund established
7 under section 201-C or marketing the facility.

8 (b) Moneys in the convention center enterprise special
9 fund shall be used by the department for the payment of any and
10 all debt service relating to the convention center, any expense
11 arising from any and all use, operation, maintenance,
12 alteration, improvement, or any unforeseen or unplanned repairs
13 of the convention center, including without limitation the food
14 and beverage service and parking service provided at the
15 convention center facility, the sale of souvenirs, logo items,
16 or other items, for any future major repair, maintenance, and
17 improvement of the convention center facility as a commercial
18 enterprise or as a world class facility for conventions,
19 entertainment, or public events, and for marketing the facility.

20 (c) Moneys in the convention center enterprise special
21 fund may be:



- 1 (1) Placed in interest-bearing accounts; provided that the
- 2 depository in which the money is deposited furnishes
- 3 security as provided in section 38-3; or
- 4 (2) Invested by the department until such time as the
- 5 moneys may be needed; provided that the department
- 6 shall limit its investments to those listed in section
- 7 36-21.

8 All interest accruing from investment of the moneys shall be
 9 credited to the convention center enterprise special fund.

10 **§201-E Tourism marketing plan; measures of effectiveness.**

11 (a) The department shall be responsible for developing a
 12 tourism marketing plan that shall be updated every year and
 13 includes the following:

- 14 (1) Statewide promotional efforts and programs;
- 15 (2) Targeted markets;
- 16 (3) Efforts to enter into brand marketing projects that
- 17 make effective use of cooperative advertising
- 18 programs;
- 19 (4) Program performance goals and targets that can be
- 20 monitored as market gauges and used as attributes to
- 21 evaluate the department's promotional programs; and



1 (5) Coordination of marketing plans of all destination
2 marketing organizations receiving state funding prior
3 to finalization of the department's marketing plan.

4 (b) In accordance with subsection (a), the department
5 shall develop measures of effectiveness to assess the overall
6 benefits and effectiveness of the marketing plan and include
7 documentation of the progress of the marketing plan toward
8 achieving the department's strategic plan goals.

9 §201-F Tourism-related activities. (a) The department
10 may enter into contracts and agreements that include the
11 following:

- 12 (1) Tourism promotion, marketing, and development;
- 13 (2) Market development-related research;
- 14 (3) Product development and diversification issues focused
15 on visitors;
- 16 (4) Promotion, development, and coordination of sports-
17 related activities and events;
- 18 (5) Promotion of Hawaii, through a coordinated statewide
19 effort, as a place to do business, including high
20 technology business, and as a business destination;
- 21 (6) Reduction of barriers to travel;



1 (7) Marketing, management, use, operation, or maintenance
2 of the convention center facility, including the
3 purchase or sale of goods or services, logo items,
4 concessions, sponsorships, and license agreements, or
5 any use of the convention center facility as a
6 commercial enterprise; provided that effective
7 January 1, 2003, and thereafter, the contract for
8 management of the convention center facility shall
9 include marketing for all uses of the facility;

10 (8) Tourism research and statistics to:

11 (A) Measure and analyze tourism trends;

12 (B) Provide information and research to assist in the
13 development and implementation of state tourism
14 policy;

15 (C) Provide tourism information on:

16 (i) Visitor arrivals, visitor characteristics,
17 and expenditures;

18 (ii) The number of transient accommodation units
19 available, occupancy rates, and room rates;

20 (iii) Airline-related data including seat capacity
21 and number of flights;



1 (iv) The economic, social, and physical impacts
2 of tourism on the State; and

3 (v) The effects of the marketing programs of the
4 department on the measures of effectiveness
5 developed; and

6 (9) Any and all other activities necessary to carry out
7 the intent of this chapter;

8 provided that the department shall periodically submit a report
9 of the contracts and agreements entered into by the department
10 to the governor, the speaker of the house of representatives,
11 and the president of the senate.

12 (b) The department may delegate to staff the
13 responsibility for soliciting, awarding, and executing
14 contracts, and monitoring and facilitating any and all functions
15 developed in accordance with subsection (a).

16 §201-G Applicability of Hawaii public procurement code;
17 convention center contractor; construction contracts. The
18 construction contracts for the maintenance of the convention
19 center facility by the private contractor that operates the
20 convention center, by its direct or indirect receipt of, and its
21 expenditure of, public funds from the department shall be
22 subject to part III of chapter 103D.



1 §201-H Tourism emergency. (a) If the department
2 determines that the occurrence of a world conflict, terrorist
3 threat, national or global economic crisis, natural disaster,
4 outbreak of disease, or other catastrophic event adversely
5 affects Hawaii's tourism industry by resulting in a substantial
6 interruption in the commerce of the State and adversely
7 affecting the welfare of its people, the department shall submit
8 a request to the governor to declare that a tourism emergency
9 exists.

10 (b) Upon declaration by the governor that a tourism
11 emergency exists pursuant to subsection (a), the department
12 shall develop and implement measures to respond to the tourism
13 emergency, including providing assistance to tourists during the
14 emergency; provided that any tourism emergency response measure
15 implemented pursuant to this subsection shall not include any
16 provision that would adversely affect the organized labor force
17 in tourism-related industries. With respect to a national or
18 global economic crisis only, in addition to the governor's
19 declaration of the existence of a tourism emergency, no action
20 in response to the tourism emergency declaration may be taken by
21 the department without the governor's express approval.



1 §201-I Tourism emergency trust fund. (a) There is
 2 established outside the state treasury a tourism emergency trust
 3 fund to be administered by the department into which shall be
 4 deposited the revenues prescribed by section 237D-6.5(b). All
 5 investment earnings from moneys in the trust fund shall be
 6 credited to the tourism special fund.

7 (b) Moneys in the trust fund shall be used exclusively to
 8 provide for the development and implementation of emergency
 9 measures to respond to any tourism emergency, including
 10 providing emergency assistance to tourists during the tourism
 11 emergency.

12 (c) Use of the trust fund, consistent with subsection (b),
 13 shall be provided for in articles, bylaws, resolutions, or other
 14 instruments executed by the department for the trust fund."

15 SECTION 2. Section 237D-6.5, Hawaii Revised Statutes, is
 16 amended to read as follows:

17 "§237D-6.5 Remittances [~~;~~ ~~distribution to counties~~]. (a)
 18 All remittances of taxes imposed under this chapter shall be
 19 made by cash, bank drafts, cashier's check, money order, or
 20 certificate of deposit to the office of the taxation district to
 21 which the return was transmitted.



1 (b) Revenues collected under this chapter, except for
2 revenues collected under section 237D-2(b), shall be distributed
3 as follows, with the excess revenues to be deposited into the
4 general fund:

5 (1) 17.3 per cent of the revenues collected under this
6 chapter shall be deposited into the convention center
7 enterprise special fund established under section
8 ~~[201B-8,]~~ 201-D; provided that beginning January 1,
9 2002, if the amount of the revenue collected under
10 this paragraph exceeds \$33,000,000 in any calendar
11 year, revenues collected in excess of \$33,000,000
12 shall be deposited into the general fund; and

13 (2) 34.2 per cent of the revenues collected under this
14 chapter shall be deposited into the tourism special
15 fund established under section ~~[201B-11]~~ 201-C for
16 tourism promotion and visitor industry research;
17 provided that for any period beginning on July 1,
18 2011, and ending on June 30, 2015, no more than
19 \$69,000,000 per fiscal year shall be deposited into
20 the tourism special fund established under section
21 ~~[201B-11,]~~ 201-C; and provided further that beginning



1 on July 1, 2002, of the first \$1,000,000 in revenues
2 deposited:

3 (A) Ninety per cent shall be deposited into the state
4 parks special fund established in section
5 184-3.4; and

6 (B) Ten per cent shall be deposited into the special
7 land and development fund established in section
8 171-19 for the Hawaii statewide trail and access
9 program;

10 provided that of the 34.2 per cent, 0.5 per cent shall
11 be transferred to a sub-account in the tourism special
12 fund to provide funding for a safety and security
13 budget, in accordance with the Hawaii tourism
14 strategic plan 2005-2015; provided further that of the
15 revenues remaining in the tourism special fund after
16 revenues have been deposited as provided in this
17 paragraph and except for any sum authorized by the
18 legislature for expenditure from revenues subject to
19 this paragraph, beginning July 1, 2007, funds shall be
20 deposited into the tourism emergency trust fund,
21 established in section [~~201B-107~~] 201-I, in a manner



1 sufficient to maintain a fund balance of \$5,000,000 in
2 the tourism emergency trust [~~fund, and~~] fund.

3 [~~(3) 44.8 per cent of the revenues collected under this~~
4 ~~chapter shall be transferred as follows: Kauai county~~
5 ~~shall receive 14.5 per cent, Hawaii county shall~~
6 ~~receive 18.6 per cent, city and county of Honolulu~~
7 ~~shall receive 44.1 per cent, and Maui county shall~~
8 ~~receive 22.8 per cent, provided that for any period~~
9 ~~beginning on July 1, 2011, and ending on June 30,~~
10 ~~2015, the total amount transferred to the counties~~
11 ~~shall not exceed \$93,000,000 per fiscal year.]~~

12 Revenues collected under section 237D-2(b) shall be
13 deposited into the general fund. All transient accommodations
14 taxes shall be paid into the state treasury each month within
15 ten days after collection and shall be kept by the state
16 director of finance in special accounts for distribution as
17 provided in this subsection.

18 [~~(c) On or before January or July 1 of each year or after~~
19 ~~the disposition of any tax appeal with respect to an assessment~~
20 ~~for periods after June 30, 1990, the state director of finance~~
21 ~~shall compute and pay the amount due as provided in subsection~~
22 ~~(b) to the director of finance of each county to become a~~



1 ~~general realization of the county expendable as such, except as~~
2 ~~otherwise provided by law."]~~

3 SECTION 3. Chapter 201B, Hawaii Revised Statutes, is
4 repealed.

5 SECTION 4. Upon the effective date of this Part, any
6 balance of moneys in the tourism special fund, the convention
7 center enterprise special fund, and tourism emergency trust fund
8 under chapter 201B, Hawaii Revised Statutes, shall be
9 transferred respectively to the corresponding tourism special
10 fund, convention center enterprise special fund, and tourism
11 emergency trust fund under the respective new sections of
12 chapter 201, Hawaii Revised Statutes, created by section 1 of
13 this Act.

14 SECTION 5. Upon the effective date of this Part, any
15 balance of moneys in the budget of the Hawaii tourism authority
16 shall be transferred to the budget of the department of
17 business, economic development, and tourism.

18 SECTION 6. All rights, powers, functions, and duties of
19 the Hawaii tourism authority are transferred to the department
20 of business, economic development, and tourism.

21 All officers and employees whose functions are transferred
22 by this Act shall be transferred with their functions and shall



1 continue to perform their regular duties upon their transfer,
2 subject to the state personnel laws and this Act.

3 No officer or employee of the State having tenure shall
4 suffer any loss of salary, seniority, prior service credit,
5 vacation, sick leave, or other employee benefit or privilege as
6 a consequence of this Act, and such officer or employee may be
7 transferred or appointed to a civil service position without the
8 necessity of examination; provided that the officer or employee
9 possesses the minimum qualifications for the position to which
10 transferred or appointed; and provided that subsequent changes
11 in status may be made pursuant to applicable civil service and
12 compensation laws.

13 An officer or employee of the State who does not have
14 tenure and who may be transferred or appointed to a civil
15 service position as a consequence of this Act shall become a
16 civil service employee without the loss of salary, seniority,
17 prior service credit, vacation, sick leave, or other employee
18 benefits or privileges and without the necessity of examination;
19 provided that such officer or employee possesses the minimum
20 qualifications for the position to which transferred or
21 appointed.



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; provided that if the attorney general is
8 requested to provide representation to a court or
9 judicial office by the chief justice or the chief
10 justice's designee, or to a legislative office by the
11 speaker of the house of representatives and the
12 president of the senate jointly, and the attorney
13 general declines to provide such representation on the
14 grounds of conflict of interest, the attorney general
15 shall retain an attorney for the court, judicial, or
16 legislative office, subject to approval by the court,
17 judicial, or legislative office;

18 (3) By the legislative reference bureau;

19 (4) By any compilation commission that may be constituted
20 from time to time;

21 (5) By the real estate commission for any action involving
22 the real estate recovery fund;



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



1 ~~(21)~~ (20) By the division of financial institutions for
 2 any action involving the mortgage loan recovery fund;
 3 or

4 ~~(22)~~ (21) By a department, in the event the attorney
 5 general, for reasons deemed by the attorney general to
 6 be good and sufficient, declines to employ or retain
 7 an attorney for a department; provided that the
 8 governor waives the provision of this section."

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

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

21 SECTION 9. Section 40-1, Hawaii Revised Statutes, is
 22 amended by amending subsection (b) to read as follows:



1 "(b) With respect to the executive branch, except the
2 University of Hawaii until June 30, 2016, [~~the Hawaii tourism~~
3 ~~authority,~~] and the department of education until June 30, 2015,
4 the comptroller shall have complete supervision of all accounts.
5 The comptroller shall preaudit all proposed payments of \$10,000
6 or more to determine the propriety of expenditures and
7 compliance with executive orders and rules that may be in
8 effect. When necessary, the comptroller shall withhold approval
9 of any payment. Whenever approval is withheld, the department
10 or agency concerned shall be promptly notified. With respect to
11 the University of Hawaii [~~, the Hawaii tourism authority,~~] and
12 the department of education, the comptroller shall issue
13 warrants for the release of funds for the operating costs of the
14 university [~~, the Hawaii tourism authority,~~] or the department of
15 education, as applicable, in amounts and at times mutually
16 agreed upon by the governor or director of finance and the
17 university [~~, the Hawaii tourism authority,~~] or department of
18 education, as applicable; provided that:

19 (1) The amounts released shall not exceed the allotment
20 ceilings for the respective funding sources of the
21 university's or the department of education's
22 appropriations established by the governor for an



1 allotment period pursuant to section 37-34, or in the
2 case of [~~the Hawaii tourism authority,~~] revenues
3 received by the convention center enterprise special
4 fund and the tourism special fund pursuant to section
5 237D-6.5; and

- 6 (2) The comptroller may issue warrants as an advance from
7 the state treasury to the University of Hawaii [~~the~~
8 ~~Hawaii tourism authority,~~] and the department of
9 education to establish a checking account and provide
10 working capital in amounts and at times mutually
11 agreed upon by the governor or director of finance and
12 the University of Hawaii [~~the Hawaii tourism~~
13 ~~authority,~~] and the department of education.

14 The University of Hawaii and the department of education shall
15 preaudit all proposed payments of \$10,000 or more and shall
16 preaudit samples of the population of proposed payments of less
17 than \$10,000; provided that the sample size comprises at least
18 five per cent of the population, and is of a size that the chief
19 financial officers of the University of Hawaii and the
20 department of education, as applicable, determine appropriate,
21 to determine the propriety of expenditures and compliance with
22 applicable laws, executive orders, and rules. [~~The Hawaii~~



1 ~~tourism authority shall preaudit all proposed payments to~~
2 ~~determine the propriety of expenditures and compliance with~~
3 ~~applicable laws, executive orders, and rules as may be in~~
4 ~~effect.] The University of Hawaii [~~~~the Hawaii tourism~~
5 ~~authority,~~] and the department of education shall make
6 disbursements for operating expenses from the amounts released
7 by the comptroller and maintain records and documents necessary
8 to support those disbursements at times mutually agreed upon by
9 the university president [~~the executive director of the Hawaii~~
10 ~~tourism authority,~~] or the superintendent of education, as
11 applicable, and the comptroller; provided that when requested by
12 the university [] or the [Hawaii tourism authority, ~~or~~]
13 department of education, the comptroller shall make all
14 disbursements for the university [~~the Hawaii tourism~~
15 ~~authority,~~] or department of education, as applicable, subject
16 to available allotment. Funds released pursuant to this section
17 shall be deposited by the university [~~the Hawaii tourism~~
18 ~~authority,~~] or department of education, as applicable, in
19 accordance with the provisions applicable to the director of
20 finance by chapter 38. Except for moneys deposited by the
21 [~~Hawaii tourism authority~~] department of business, economic
22 development, and tourism in the convention center enterprise



1 special fund pursuant to section [~~201B-8,~~] 201-D, and in the
2 tourism special fund pursuant to section [~~201B-11,~~] 201-C, any
3 interest earned on the deposit of funds released pursuant to
4 this section shall be deposited in the state treasury at the end
5 of each fiscal year."

6 SECTION 10. Section 40-4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§40-4 Publication of statements.** The comptroller shall
9 prepare and submit to the governor, immediately following the
10 close of each fiscal year, a statement of income and expenditure
11 by funds, showing the principal sources of revenue, the function
12 or purpose for which expenditures were made, together with a
13 consolidated statement showing similar information for all
14 funds; also a statement showing the balance in each fund at the
15 beginning of the fiscal year, plus the receipts, minus the
16 disbursements, and the balance on hand at the close of the
17 fiscal year after deducting outstanding warrants and vouchers.
18 The comptroller may request all agencies, the judiciary, the
19 University of Hawaii until June 30, 2016, [~~the Hawaii tourism~~
20 ~~authority,~~] the department of education until June 30, 2011, and
21 the legislature to provide such information as may be required
22 for the preparation of statements."



1 SECTION 11. Section 40-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§40-6 Approval of business and accounting forms. The
4 comptroller shall determine the forms required to adequately
5 supply accounting and statistical data for the state government.
6 The comptroller shall require heads of departments and
7 establishments of the state government to submit proposed new
8 forms or proposed changes in current business and accounting
9 forms for review and approval before ordering the same printed;
10 except that the University of Hawaii until June 30, 2016, [~~the~~
11 ~~Hawaii tourism authority,~~] and the department of education until
12 June 30, 2011, shall be subject to this requirement only with
13 respect to uniform business and accounting forms of statewide
14 use in the State's accounting system. All standard state forms
15 shall be classified, numbered, and standardized in design,
16 dimensions, color, and grade of paper and recorded in a
17 catalogue of accounting and statistical forms by the
18 comptroller."

19 SECTION 12. Section 5 of Act 102, Session Laws of Hawaii
20 2010, is amended to read as follows:

21 "SECTION 5. Act 58, Session Laws of Hawaii 2004, as
22 amended by section 50 of Act 22, Session Laws of Hawaii 2005, as



1 amended by section 1 of Act 306, Session Laws of Hawaii 2006, as
2 amended by section 12 of Act 5, Special Session Laws of Hawaii
3 2009, is amended by amending section 14 to read as follows:

4 "SECTION 14. This Act shall take effect upon its approval;
5 provided that:

6 (1) The amendments made to sections 40-1, 40-4, and 40-6,
7 Hawaii Revised Statutes, by part I of this Act shall
8 not be repealed when those sections are reenacted on
9 June 30, 2006, by section 1 of Act 137, Session Laws
10 of Hawaii 2005;

11 (2) Sections 3, 4, 5, 6, and 7 of part I shall be repealed
12 on June 30, 2015, [and:

13 ~~(A) Sections 201B-2 and 201B-11, Hawaii Revised~~
14 ~~Statutes, shall be reenacted in the form in which~~
15 ~~they read on May 5, 2004, except that the~~
16 ~~amendments made by Act 5, Special Session Laws of~~
17 ~~Hawaii 2009, to section 201B-2, Hawaii Revised~~
18 ~~Statutes, and subsection (c) of section 201B-11,~~
19 ~~Hawaii Revised Statutes, shall not be repealed,~~
20 and



1 SECTION 15. Chapter 237, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§237- County tourism surcharge tax. (a) Beginning
5 January 1, 2013, pursuant to section 46- , in addition to all
6 other taxes imposed under this chapter, each county may levy,
7 assess, and collect a county tourism surcharge tax at the rate
8 of not more than two per cent on:

- 9 (1) Gross proceeds and gross income taxable under this
10 chapter that occur within that county; and
- 11 (2) Gross proceeds or gross income of all written
12 contracts that require the passing on of the taxes
13 imposed under this chapter; provided that if the gross
14 proceeds or gross income are received as payments
15 beginning in the taxable year in which the taxes
16 become effective, on contracts entered into before
17 June 30 of the year prior to the taxable year in which
18 the taxes become effective, and the written contracts
19 do not provide for the passing on of increased rates
20 of taxes, the county tourism surcharge tax shall not
21 be imposed on the gross proceeds or gross income
22 covered under the written contracts. The county



1 tourism surcharge tax shall be imposed on the gross
2 proceeds or gross income from all contracts entered
3 into on or after June 30 of the year prior to the
4 taxable year in which the taxes become effective,
5 regardless of whether the contract allows for the
6 passing on of any tax or any tax increases.

7 (b) No county tourism surcharge tax shall be established
8 under this chapter upon any transaction that is not subject to
9 taxation or that is exempt from taxation under this chapter.

10 (c) A county electing to establish a county tourism
11 surcharge tax shall do so by adoption of county ordinance.

12 (d) Revenue received by a county from a county tourism
13 surcharge tax shall be deposited into each respective county's
14 general fund for use by that county.

15 (e) The director of finance of each county electing to
16 establish a county tourism surcharge tax shall provide the
17 necessary filing forms.

18 (f) The penalties provided by section 231-39 for failure
19 to file a tax return shall be imposed on the amount of county
20 tourism surcharge tax due on the return being filed for the
21 failure to file the schedule required to accompany the return;
22 provided that the county, in conjunction with the department of



1 taxation, shall be responsible for the enforcement of the county
2 tourism surcharge tax. In addition, there shall be added to the
3 tax an amount equal to ten per cent of the amount of the
4 surcharge and tax due on the return being filed for the failure
5 to file the schedule or the failure to correctly report the
6 assignment of the county tourism surcharge tax.

7 (g) All taxpayers who file on a fiscal year basis whose
8 fiscal year ends after December 31 of the year prior to the
9 taxable year in which the taxes become effective, shall file a
10 short period annual return for the period preceding January 1 of
11 the taxable year in which the taxes become effective. Each
12 fiscal year taxpayer shall also file a short period annual
13 return for the period starting on January 1 of the taxable year
14 in which the taxes become effective, and ending before January 1
15 of the following year."

16 SECTION 16. Chapter 238, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§238- County tourism surcharge tax. (a) Beginning
20 January 1, 2013, pursuant to section 46- , in addition to all
21 other taxes imposed under this chapter, each county may levy,
22 assess, and collect a county tourism surcharge tax at the rate



1 of not more than two per cent on the value of property and
2 services taxable under this chapter. Except as provided in this
3 section, all provisions of this chapter shall apply to the
4 county tourism surcharge tax.

5 (b) A county electing to establish a county tourism
6 surcharge tax shall do so by adoption of county ordinance.

7 (c) Revenue received by a county from a county tourism
8 surcharge tax shall be deposited into each respective county's
9 general fund for use by that county.

10 (d) The county director of finance shall also have the
11 exclusive rights and power to determine the imports or purchases
12 of tangible personal property that are subject to the county
13 tourism surcharge tax.

14 (e) No county tourism surcharge tax shall be established
15 upon any use taxable under this chapter that is exempt from
16 taxation under this chapter.

17 (f) The director of finance of each county electing to
18 establish a county tourism surcharge tax shall provide the
19 necessary filing forms.

20 (g) The penalties provided by section 231-39 for failure
21 to file a tax return shall be imposed on the amount of surcharge
22 due on the return being filed for the failure to file the



1 schedule required to accompany the return. In addition, there
2 shall be added to the tax an amount equal to ten per cent of the
3 amount of the surcharge and tax due on the return being filed
4 for the failure to file the schedule or the failure to correctly
5 report the assignment of the use tax by taxation district on the
6 schedule required under this subsection.

7 (h) All taxpayers who file on a fiscal year basis whose
8 fiscal year ends after December 31 of the year prior to the
9 taxable year in which the taxes become effective, shall file a
10 short period annual return for the period preceding January 1 of
11 the taxable year in which the taxes become effective. Each
12 fiscal year taxpayer shall also file a short period annual
13 return for the period starting on January 1 of the taxable year
14 in which the taxes become effective, and ending before January 1
15 of the following year."

16 **PART IV**

17 SECTION 17. In codifying this Act, the revisor shall
18 substitute the appropriate numbered section designations for the
19 letter designations used in this Act.

20 SECTION 18. In codifying this Act, the revisor shall
21 substitute the term "department of business, economic
22 development, and tourism" or "department", as appropriate, for



1 the term "Hawaii tourism authority" wherever that term appears
2 in statute in other statutory sections than those amended in
3 this Act.

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

6 SECTION 20. This Act shall take effect on January 1, 2013.

7

INTRODUCED BY:





S.B. NO. 2328

Report Title:

Hawaii Tourism Authority; County Tourism Surcharge Tax

Description:

Repeals Hawaii tourism authority. Transfers the functions of the Hawaii tourism authority to DBEDT. Eliminates distribution of funds to counties from transient accommodations tax. Allows counties to assess county tourism surcharge tax.

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

