
A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.

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

1 SECTION 1. Section 202, Hawaiian Homes Commission Act,
2 1920, as amended, is amended to read as follows:
3 "**§202. Department officers, staff, commission, members,**
4 **compensation.** (a) There shall be a department of Hawaiian home
5 lands which shall be headed by an executive board to be known as
6 the Hawaiian homes commission. The members of the commission
7 shall be nominated and appointed in accordance with section
8 26-34, Hawaii Revised Statutes. The commission shall be
9 composed of nine members, as follows: three shall be residents
10 of the city and county of Honolulu; two shall be residents of
11 the county of Hawaii one of whom shall be a resident of east
12 Hawaii and the other a resident of west Hawaii; two shall be
13 residents of the county of Maui one of whom shall be a resident
14 from the island of Molokai; one shall be a resident of the
15 county of Kauai; and the ninth member shall be the chairman of
16 the Hawaiian homes commission. All members shall have been
17 residents of the State at least three years prior to their



1 appointment and at least [~~four~~] five of the members shall be
2 [~~descendants of not less than one fourth part of the blood of~~
3 ~~the races inhabiting the Hawaiian Islands previous to 1778.~~]
4 beneficiaries of the trust; provided that out of the five
5 beneficiaries, three shall be beneficiaries that are on the
6 waitlist for Hawaiian home lands at the time of their
7 appointment and the other two shall be department of Hawaiian
8 home lands lessees. The members of the commission shall serve
9 without pay, but shall receive actual expenses incurred by them
10 in the discharge of their duties as [~~such~~] members. The
11 governor shall appoint the [~~chairman~~] chairperson of the
12 commission from among the commission members [~~thereof~~].

13 The commission may delegate to the [~~chairman-such~~]
14 chairperson duties, powers, and authority or so much thereof, as
15 may be lawful or proper for the performance of the functions
16 vested in the commission. The [~~chairman~~] chairperson of the
17 commission shall serve in a full-time capacity. [~~He~~] The
18 chairperson shall, in such capacity, perform [~~such~~] duties, and
19 exercise [~~such~~] powers and authority, or so much thereof, as may
20 be delegated to [~~him~~] the chairperson by the commission as
21 herein provided above.



1 (b) The provisions of section 76-16, Hawaii Revised
2 Statutes, shall apply to the positions of first deputy and
3 private secretary to the [~~chairman~~] chairperson of the
4 commission. The department may hire temporary staff on a
5 contractual basis not subject to chapters 76 and 78, Hawaii
6 Revised Statutes, when the services to be performed will assist
7 in carrying out the purposes of the Act. These positions may be
8 funded through appropriations for capital improvement program
9 projects and by the administration account, operating fund, or
10 native Hawaiian rehabilitation fund. No contract shall be for a
11 period longer than two years, but individuals hired under
12 contract may be employed for a maximum of six years; provided
13 that the six-year limitation shall not apply if the department,
14 with the approval of the governor, determines that [~~such~~] these
15 contract individuals are needed to provide critical services for
16 the efficient functioning of the department. All other
17 positions in the department shall be subject to chapter 76,
18 Hawaii Revised Statutes.

19 All vacant and new civil service positions covered by
20 chapter 76, Hawaii Revised Statutes, shall be filled in
21 accordance with section 76-22.5, Hawaii Revised Statutes;



1 provided that the provisions of these sections shall be
2 applicable first to qualified persons of Hawaiian extraction.

3 (c) The governor may establish an inter-agency council to
4 address the purposes of this chapter. The inter-agency council,
5 if established, shall meet at least three times a year."

6 SECTION 2. Section 222, Hawaiian Homes Commission Act,
7 1920, as amended, is amended by amending subsection (a) to read
8 as follows:

9 "(a) The department may make [~~such~~] expenditures and shall
10 adopt rules in accordance with chapter 91, Hawaii Revised
11 Statutes, as are necessary for the efficient execution of the
12 functions vested in the department by this Act. All
13 expenditures of the department and all moneys necessary for
14 loans made by the department, in accordance with [~~the provisions~~
15 ~~of~~] this Act, shall be allowed and paid upon the presentation of
16 itemized vouchers approved by the [~~chairman~~] chairperson of the
17 commission or the [~~chairman's~~] chairperson's designated
18 representative. The department shall make an annual report to
19 the legislature of the State upon the first day of each regular
20 session and [~~such~~] any special reports as the legislature may
21 from time to time require. The [~~chairman~~] chairperson and



1 members of the commission shall give bond as required by law.
2 The sureties upon the bond and the conditions thereof shall be
3 approved annually by the governor."

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

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

7 "(a) No department of the State other than the attorney
8 general may employ or retain any attorney, by contract or
9 otherwise, for the purpose of representing the State or the
10 department in any litigation, rendering legal counsel to the
11 department, or drafting legal documents for the department;
12 provided that the foregoing provision shall not apply to the
13 employment or retention of attorneys:

14 (1) By the public utilities commission, the labor and
15 industrial relations appeals board, and the Hawaii
16 labor relations board;

17 (2) By any court or judicial or legislative office of the
18 State; provided that if the attorney general is
19 requested to provide representation to a court or
20 judicial office by the chief justice or the chief
21 justice's designee, or to a legislative office by the



1 speaker of the house of representatives and the
2 president of the senate jointly, and the attorney
3 general declines to provide such representation on the
4 grounds of conflict of interest, the attorney general
5 shall retain an attorney for the court, judicial, or
6 legislative office, subject to approval by the court,
7 judicial, or legislative office;

8 (3) By the legislative reference bureau;

9 (4) By any compilation commission that may be constituted
10 from time to time;

11 (5) By the real estate commission for any action involving
12 the real estate recovery fund;

13 (6) By the contractors license board for any action
14 involving the contractors recovery fund;

15 (7) By the office of Hawaiian affairs;

16 (8) By the department of commerce and consumer affairs for
17 the enforcement of violations of chapters 480 and
18 485A;

19 (9) As grand jury counsel;

20 (10) By the Hawaii health systems corporation, or its
21 regional system boards, or any of their facilities;



- 1 (11) By the auditor;
- 2 (12) By the office of ombudsman;
- 3 (13) By the insurance division;
- 4 (14) By the University of Hawaii;
- 5 (15) By the Kahoolawe island reserve commission;
- 6 (16) By the division of consumer advocacy;
- 7 (17) By the office of elections;
- 8 (18) By the campaign spending commission;
- 9 (19) By the Hawaii tourism authority, as provided in
- 10 section 201B-2.5;
- 11 (20) By the division of financial institutions;
- 12 (21) By the office of information practices; [~~or~~]
- 13 (22) By the Hawaiian homes commission or the department of
- 14 Hawaiian home lands; provided that:
- 15 (A) The Hawaiian homes commission and the department
- 16 of Hawaiian home lands may use the services of
- 17 the attorney general as needed and when the
- 18 interests of the State, the Hawaiian homes
- 19 commission, and the department of Hawaiian home
- 20 lands are aligned; and



1 (B) Legal fees owed to independent counsel shall be
2 paid by the State; or

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

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

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



1 SECTION 4. (a) The legislative reference bureau shall
2 conduct a study on the implications of creating a position for
3 the director of the department of Hawaiian home lands that is
4 separate from the chairperson of the Hawaiian homes commission.

5 (b) The legislative reference bureau shall submit a report
6 of its findings and recommendations, including any proposed
7 legislation, to the legislature no later than twenty days prior
8 to the convening of the regular session of 2021.

9 SECTION 5. Any sitting Hawaiian homes commission member
10 whose term of office has not expired on the effective date of
11 this Act and who does not qualify to be a member of the Hawaiian
12 homes commission under the amendments made by this Act may
13 continue to serve on the commission until that member's term
14 expires.

15 SECTION 6. The provisions of the amendments made by this
16 Act to the Hawaiian Homes Commission Act, 1920, as amended, are
17 declared to be severable, and if any section, sentence, clause,
18 or phrase, or the application thereof to any person or
19 circumstances is held ineffective because there is a requirement
20 of having the consent of the United States to take effect, then
21 that portion only shall take effect upon the granting of consent



1 by the United States and effectiveness of the remainder of these
2 amendments or the application thereof shall not be affected.

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect upon its approval.



Report Title:

Hawaiian Homes Commission Act; Beneficiaries; Department of Hawaiian Home Lands; Inter-agency Council; Legal Counsel

Description:

Requires that majority of the member of the Hawaiian homes commission be beneficiaries. Authorizes the Governor to establish an inter-agency council. Allows the Hawaiian Homes Commission to retain separate counsel from the Attorney General to provide service to the Commission and beneficiaries. Requires the Legislative Reference Bureau to conduct a study on the implications of creating a position for the Director of the Department of Hawaiian Homelands that is separate from the Chairperson of the Hawaiian Homes Commission. (SD1)

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

