

---

---

# A BILL FOR AN ACT

RELATING TO TOURISM.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to title 13 to be appropriately designated  
3 and to read as follows:

4 "CHAPTER

5 **DESTINATION MANAGEMENT AGENCY**

6 § -1 **Definitions.** As used in this chapter, unless the  
7 context otherwise requires:

8 "Agency" means the destination management agency.

9 "Commission" means the destination management commission.

10 "Convention center facility" or "convention center" means  
11 any combination of land, buildings, and improvements thereon,  
12 acquired or developed by the State, and includes exhibition  
13 halls, meeting rooms, a plenary session hall, and support space  
14 that reflect a Hawaiian sense of place; any other structure or  
15 facility required or useful for the operation of a convention  
16 center, including commercial, office, community service,  
17 parking, garage, and other supporting service structures; and



1 all necessary, useful, and related equipment, furnishings, and  
2 appurtenances.

3 "Director" means the director of the agency.

4 "Public agency" means any office, department, board,  
5 commission, bureau, division, public corporation agency, or  
6 instrumentality of the federal, state, or county government.

7 § -2 **Destination management agency; commission;**

8 **established.** (a) There is established the destination  
9 management agency, which shall be a body corporate and a public  
10 instrumentality of the State, for the purpose of implementing  
11 this chapter. The agency shall be placed within the department  
12 of business, economic development, and tourism for  
13 administrative purposes only.

14 (b) The agency shall be headed by a commission that shall  
15 consist of three members who are appointed by the governor in  
16 the manner prescribed in section 26-34. The members shall be  
17 appointed for terms of four years, subject to the advice and  
18 consent of the senate; provided that membership on the  
19 commission shall not exceed eight consecutive years; provided  
20 further that each member shall hold office until the member's



1 successor is appointed and qualified. The governor shall  
2 provide for staggered terms of the initially appointed members.

3 (c) The members shall elect a chairperson from amongst  
4 themselves. The chair shall be paid a salary set at eighty per  
5 cent of the salary of the chairperson of the public utilities  
6 commission, and each of the other members shall be paid a salary  
7 set at eighty per cent of the salary of the other commissioners  
8 of the public utilities commission.

9 (d) The commission shall appoint one person to serve as  
10 the director of the agency, exempt from chapters 76 and 88, who  
11 shall oversee the agency staff. The director shall be paid a  
12 salary set at ninety per cent of the salary of the director of  
13 business, economic development, and tourism.

14 § -3 Authority; private attorneys. (a) The commission  
15 may appoint or retain by contract one or more attorneys who are  
16 independent of the attorney general to provide legal services  
17 for the commission solely in cases of contract negotiations in  
18 which the attorney general lacks sufficient expertise; provided  
19 that the independent attorney shall consult and work in  
20 conjunction with the designated deputy attorney general assigned  
21 to the agency.



1 (b) The commission may fix the compensation of the  
2 attorneys appointed or retained pursuant to this section.  
3 Attorneys appointed or retained by contract shall be exempt from  
4 chapters 76, 78, and 88.

5 **§ -4 Powers, generally.** (a) Except as otherwise  
6 limited by this chapter, the agency may:

- 7 (1) Sue and be sued;
- 8 (2) Have a seal and alter the same at its pleasure;
- 9 (3) Through its director, make and execute contracts and  
10 all other instruments necessary or convenient for the  
11 exercise of its powers and functions under this  
12 chapter; provided that the agency may enter into  
13 contracts and agreements for a period of up to five  
14 years, subject to the availability of funds; and  
15 provided further that the agency may enter into  
16 agreements for the use of the convention center  
17 facility for a period of up to ten years;
- 18 (4) Make and alter bylaws for its organization and  
19 internal management;



# H.B. NO. 1375

- 1           (5) Unless otherwise provided in this chapter, adopt rules  
2           in accordance with chapter 91 with respect to its  
3           projects, operations, properties, and facilities;
- 4           (6) Through its director, represent the agency in  
5           communications with the governor and the legislature;
- 6           (7) Through its director, provide for the appointment of  
7           officers, agents, a sports coordinator, and employees,  
8           subject to the approval of the commission, prescribing  
9           their duties and qualifications, and fixing their  
10          salaries, without regard to chapters 76 and 78, if  
11          funds have been appropriated by the legislature and  
12          allotted as provided by law;
- 13          (8) Through its director, purchase supplies, equipment, or  
14          furniture;
- 15          (9) Through its director, allocate the space or spaces  
16          that are to be occupied by the agency and appropriate  
17          staff;
- 18          (10) Through its director, engage the services of  
19          consultants on a contractual basis for rendering  
20          professional and technical assistance and advice;



- 1 (11) Procure insurance against any loss in connection with  
2 its property and other assets and operations in  
3 amounts and from insurers as it deems desirable;
- 4 (12) Contract for or accept revenues, compensation,  
5 proceeds, and gifts or grants in any form from any  
6 public agency or any other source;
- 7 (13) Develop, coordinate, and implement state policies and  
8 directions for tourism and related activities taking  
9 into account the economic, social, and physical  
10 impacts of tourism on the State, Hawaii's natural  
11 environment, and areas frequented by visitors;
- 12 (14) Have a permanent, strong focus on Hawaii brand  
13 management;
- 14 (15) Coordinate all agencies and advise the private sector  
15 in the development of tourism-related activities and  
16 resources;
- 17 (16) Work to eliminate or reduce barriers to travel to  
18 provide a positive and competitive business  
19 environment, including coordinating with the  
20 department of transportation on issues affecting  
21 airlines and air route development;



- 1           (17) Coordinate the development of new products with the  
2                    counties and other persons in the public sector and  
3                    private sector, including the development of sports,  
4                    culture, health and wellness, education, technology,  
5                    agriculture, and nature tourism;
- 6           (18) Establish a public information and educational program  
7                    to inform the public of tourism and tourism-related  
8                    problems;
- 9           (19) Encourage the development of tourism educational,  
10                   training, and career counseling programs;
- 11          (20) Establish a program to monitor, investigate, and  
12                   respond to complaints about problems resulting  
13                    directly or indirectly from the tourism industry and  
14                    taking appropriate action as necessary;
- 15          (21) Develop and implement emergency measures to respond to  
16                    any adverse effects on the tourism industry, pursuant  
17                    to section       -12;
- 18          (22) Set and collect rents, fees, charges, or other  
19                    payments for the lease, use, occupancy, or disposition  
20                    of the convention center facility without regard to  
21                    chapter 91;



1           (23) Notwithstanding chapter 171, acquire, lease as lessee  
2           or lessor, own, rent, hold, and dispose of the  
3           convention center facility in the exercise of its  
4           powers and the performance of its duties under this  
5           chapter; and

6           (24) Acquire by purchase, lease, or otherwise, and develop,  
7           construct, operate, own, manage, repair, reconstruct,  
8           enlarge, or otherwise effectuate, either directly or  
9           through developers, a convention center facility.

10           (b) The agency shall do any and all things necessary to  
11 carry out its purposes, to exercise the powers and  
12 responsibilities given in this chapter, and to perform other  
13 functions required or authorized by law.

14           (c) As used in this section, "Hawaii brand" has the same  
15 meaning as in section       -8.

16           §   -5 **Meetings of the commission.** (a) The meetings of  
17 the commission shall be open to the public as provided in  
18 section 92-3, except that when it is necessary for the  
19 commission to receive:





1 (1) Information that is proprietary to a particular  
2 enterprise or the disclosure of which might be harmful  
3 to the business interests of the enterprise; or

4 (2) Information that is necessary to protect Hawaii's  
5 competitive advantage as a visitor destination,  
6 the commission may enter into an executive meeting that is  
7 closed to the public in accordance with the procedures provided  
8 for holding an executive meeting under part I of chapter 92.

9 (b) The commission shall be subject to the procedural  
10 requirements of section 92-4, and this authorization shall be in  
11 addition to the exceptions listed in section 92-5, to enable the  
12 commission to respect the proprietary requirements of  
13 enterprises with which it has business dealings.

14 § -6 **Exemption from administrative supervision of boards**  
15 **and commissions.** Notwithstanding any other law to the contrary,  
16 the agency shall be exempt from section 26-35 with the exception  
17 of section 26-35(a) (2), (3), (7), and (8) and (b).

18 § -7 **Visitor education marketing plan.** (a) The agency  
19 shall be responsible for developing a visitor education  
20 marketing plan, with an emphasis on the Asia-Pacific market.  
21 The plan shall be a single, comprehensive document that shall be



1 updated every year that shall focus on educating visitors about  
2 destination management and Hawaiian cultural values.

3 (b) The agency shall develop measures of effectiveness to  
4 assess the overall benefits and effectiveness of the visitor  
5 education marketing plan and include documentation of the  
6 progress of the plan towards achieving the agency's strategic  
7 goal.

8 § -8 **Hawaii brand management.** The agency shall develop  
9 a plan for statewide Hawaii brand management efforts and  
10 programs. The plan shall include:

11 (1) Efforts to enter into Hawaii brand management projects  
12 that make effective use of cooperative programs; and

13 (2) The agency's guidance and direction for the  
14 development and coordination of promotional programs  
15 that build and promote the Hawaii brand, which are  
16 implemented through contracts and agreements with  
17 destination marketing organizations or other qualified  
18 organizations, including:

19 (A) Target markets and the results being sought;

20 (B) Key performance indicators; and



1 (C) Private sector collaborative or cooperative  
2 efforts that may be required.

3 As used in this section, "Hawaii brand" means the programs  
4 that collectively differentiate the Hawaii experience from other  
5 destinations.

6 § -9 **Tourism-related activities.** (a) The agency may  
7 enter into contracts and agreements that include the following:

- 8 (1) Tourism promotion and development;
- 9 (2) Product development and diversification issues focused  
10 on visitors;
- 11 (3) Promotion, development, and coordination of sports-  
12 related activities and events;
- 13 (4) Promotion of Hawaii, through a coordinated statewide  
14 effort, as a place to do business, including high  
15 technology business, and as a business destination;
- 16 (5) Reduction of barriers to travel;
- 17 (6) Management, use, operation, or maintenance of the  
18 convention center facility, including the purchase or  
19 sale of goods or services, logo items, concessions,  
20 sponsorships, and license agreements, or any use of



1           the convention center facility as a commercial  
2           enterprise;  
3       (7)   Tourism research and statistics to:  
4           (A)   Measure and analyze tourism trends;  
5           (B)   Provide information and research to assist in the  
6                development and implementation of state tourism  
7                policy; and  
8           (C)   Provide tourism information on:  
9                (i)   Visitor arrivals, visitor characteristics,  
10                and expenditures;  
11               (ii)   The number of transient accommodation units  
12                available, occupancy rates, and room rates;  
13               (iii)   Airline-related data including seat capacity  
14                and number of flights;  
15               (iv)   The economic, social, and physical impacts  
16                of tourism on the State; and  
17               (v)   The effects of the visitor educational  
18                marketing programs of the agency on the  
19                measures of effectiveness developed pursuant  
20                to section     -7; and



1           (8) Any and all other activities necessary to carry out  
2           the intent of this chapter;  
3 provided that the agency shall periodically submit a report of  
4 the contracts and agreements entered into by the agency to the  
5 governor, speaker of the house of representatives, and president  
6 of the senate.

7           (b) The agency shall be responsible for:

- 8           (1) Creating a vision and developing a long-range  
9           strategic plan for tourism in Hawaii;
- 10          (2) Promoting and developing the tourism industry in the  
11          State;
- 12          (3) Arranging for the conduct of research through  
13          contractual services with the University of Hawaii or  
14          any agency or other qualified persons concerning  
15          social, economic, and environmental aspects of tourism  
16          development in the State;
- 17          (4) Providing technical or other assistance to agencies  
18          and private industry upon request;
- 19          (5) Perpetuating the uniqueness of the native Hawaiian  
20          culture and community, and their importance to the  
21          quality of the visitor experience, by ensuring that:



- 1 (A) The Hawaiian culture is accurately portrayed by  
2 Hawaii's visitor industry;
- 3 (B) Hawaiian language is supported and normalized as  
4 both an official language of the State as well as  
5 the foundation of the host culture that draws  
6 visitors to Hawaii;
- 7 (C) Hawaiian cultural practitioners and cultural  
8 sites that give value to Hawaii's heritage are  
9 supported, nurtured, and engaged in sustaining  
10 the visitor industry; and
- 11 (D) A native Hawaiian cultural education and training  
12 program is provided for the visitor industry  
13 workforce having direct contact with visitors;  
14 and
- 15 (6) Reviewing annually the expenditure of public funds by  
16 any visitor industry organization that contracts with  
17 the agency to perform tourism promotion and  
18 development and making recommendations necessary to  
19 ensure the effective use of the funds for the  
20 development of tourism.



1 (c) The agency may delegate to staff the responsibility  
2 for soliciting, awarding, and executing contracts and for  
3 monitoring and facilitating any and all functions developed in  
4 accordance with this section.

5 (d) Where public disclosure of information gathered or  
6 developed by the agency may place a business at a competitive  
7 disadvantage or may impair or frustrate the agency's ability to  
8 either compete as a visitor destination or obtain or utilize  
9 information for a legitimate government function, the agency may  
10 withhold from public disclosure competitively sensitive  
11 information including:

- 12 (1) Completed survey forms and questionnaire forms;
- 13 (2) Coding sheets; and
- 14 (3) Database records of the information.

15 **§ -10 Applicability of Hawaii public procurement code;**  
16 **convention center contractor; construction contracts.** The  
17 construction contracts for the maintenance of the convention  
18 center facility by the private contractor that operates the  
19 convention center, by its direct or indirect receipt of, and its  
20 expenditure of, public funds from the department of business,



1 economic development, and tourism or the agency, or both, shall  
2 be subject to part III of chapter 103D.

3       **§ -11 Convention center enterprise special fund.** (a)

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

- 6       (1) A portion of the revenues from the transient  
7           accommodations tax, as provided by section 237D-6.5;
- 8       (2) All revenues or moneys derived from the operations of  
9           the convention center to include all revenues from the  
10          food and beverage service, all revenues from the  
11          parking facilities or from any concession, and all  
12          revenues from the sale of souvenirs, logo items, or  
13          any other items offered for purchase at the convention  
14          center; and
- 15       (3) Private contributions, interest, compensation, gross  
16          or net revenues, proceeds, or other moneys derived  
17          from any source or for any purpose arising from the  
18          use of the convention center facility.

19       (b) Moneys in the convention center enterprise special  
20 fund shall be used by the agency for the payment of expenses  
21 arising from any and all use, operation, maintenance,





1 alteration, improvement, or any unforeseen or unplanned repairs  
2 of the convention center, including without limitation the food  
3 and beverage service and parking service provided at the  
4 convention center facility, the sale of souvenirs, logo items,  
5 or other items, for any future major repair, maintenance, and  
6 improvement of the convention center facility as a commercial  
7 enterprise or as a world class facility for conventions,  
8 entertainment, or public events.

9 (c) Moneys in the convention center enterprise special  
10 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) Otherwise invested by the agency until a time as the  
15 moneys may be needed; provided that the agency shall  
16 limit its investments to those listed in section 36-  
17 21.

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

20 § -12 **Tourism emergency.** (a) If the commission  
21 determines that the occurrence of a world conflict, terrorist



1 threat, national or global economic crisis, natural disaster,  
2 outbreak of disease, or other catastrophic event adversely  
3 affects Hawaii's tourism industry by resulting in a substantial  
4 interruption in the commerce of the State and adversely  
5 affecting the welfare of its people, the commission shall submit  
6 a request to the governor to declare that a tourism emergency  
7 exists.

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

20 **§ -13 Tourism emergency special fund.** (a) There is  
21 established outside the state treasury a tourism emergency



1 special fund to be administered by the commission, into which  
2 shall be deposited the revenues prescribed by section 237D-  
3 6.5(b) and all investment earnings credited to the assets of the  
4 fund.

5 (b) Moneys in the special fund shall be used exclusively  
6 to provide for the development and implementation of emergency  
7 measures to respond to any tourism emergency pursuant to  
8 section -12, including providing emergency assistance to  
9 tourists during the tourism emergency.

10 (c) Use of the special fund, consistent with subsection  
11 (b), shall be provided for in articles, bylaws, resolutions, or  
12 other instruments executed by the commission as administrator  
13 for the special fund.

14 **§ -14 Tourism special fund.** (a) There is established  
15 in the state treasury the tourism special fund, into which shall  
16 be deposited:

17 (1) A portion of the revenues from any transient  
18 accommodations tax, as provided by section 237D-6.5;  
19 and

20 (2) Appropriations by the legislature to the tourism  
21 special fund; and



- 1 (3) Gifts, grants, and other funds accepted by the agency.
- 2 (b) Moneys in the tourism special fund may be:
- 3 (1) Placed in interest-bearing accounts; provided that the
- 4 depository in which the money is deposited furnishes
- 5 security as provided in section 38-3; or
- 6 (2) Otherwise invested by the agency until a time as the
- 7 moneys may be needed; provided that the agency shall
- 8 limit its investments to those listed in section 36-
- 9 21.
- 10 All interest accruing from the investment of these moneys shall
- 11 be credited to the tourism special fund.
- 12 (c) Moneys in the tourism special fund:
- 13 (1) Shall be used by the agency for the purposes of this
- 14 chapter; provided that:
- 15 (A) No more than 3.5 per cent of this amount shall be
- 16 used for administrative expenses, including
- 17 \$15,000 for a protocol fund to be expended at the
- 18 discretion of the director of the agency; and
- 19 (B) At least \$1,000,000 shall be made available to
- 20 support efforts to manage, improve, and protect



1                   Hawaii's natural environment and areas frequented  
2                   by visitors; and

3           (2)   May be used to provide the counties with grants to  
4           help support county related destination management  
5           efforts.

6           **§   -15   Exemption of the agency from taxation.**   All  
7   revenues and receipts derived by the agency from any project or  
8   a project agreement or other agreement pertaining thereto shall  
9   be exempt from all state taxation.  Any right, title, and  
10   interest of the agency in any project shall also be exempt from  
11   all state taxation.  Except as otherwise provided by law, the  
12   interest of a qualified person or other user of a project or a  
13   project agreement or other agreements related to a project shall  
14   not be exempt from taxation to a greater extent than it would be  
15   if the costs of the project were directly financed by the  
16   qualified person or user.

17           **§   -16   Assistance by state and county agencies; advisory**  
18   **group.**  (a)  Any state or county agency may render services upon  
19   request of the agency.

20           (b)  The agency may establish an advisory group that may  
21   meet monthly or as the agency deems necessary, which may include



1 the director of business, economic development, and tourism,  
2 director of transportation, chairperson of the board of land and  
3 natural resources, and executive director of the state  
4 foundation on culture and the arts to advise the agency on  
5 matters relating to their respective departments or agency in  
6 the preparation and execution of suggested:

- 7 (1) Measures to respond to tourism emergencies pursuant to  
8 section -12;
- 9 (2) Programs for the management, improvement, and  
10 protection of Hawaii's natural environment and other  
11 areas frequented by visitors;
- 12 (3) Measures to address issues affecting airlines, air  
13 routes, and barriers to travel to Hawaii; and
- 14 (4) Programs to perpetuate the cultures of Hawaii and  
15 engage local communities to sustain and preserve the  
16 native Hawaiian culture.

17 § -17 **Declaration of public function, purpose, and**  
18 **necessity.** The powers and functions granted to and exercised by  
19 the agency under this chapter are declared to be public and  
20 governmental functions, exercised for a public purpose, and  
21 matters of public necessity.



1           §   -18   **Court proceedings; preferences; venue.** (a) Any  
2 action or proceeding to which the agency, the State, or the  
3 county may be a party, in which any question arises as to the  
4 validity of this chapter, shall be preferred over all other  
5 civil cases, except election cases, in the circuit court of the  
6 circuit where the case or controversy arises, and shall be heard  
7 and determined in preference to all other civil cases pending  
8 therein except election cases, irrespective of position on the  
9 calendar.

10           (b) Upon application of counsel to the agency, the same  
11 preference shall be granted in any action or proceeding  
12 questioning the validity of this chapter in which the agency may  
13 be allowed to intervene.

14           (c) Any action or proceeding to which the agency, the  
15 State, or the county may be party, in which any question arises  
16 as to the validity of this chapter or any portion of this  
17 chapter, or any action of the agency may be filed in the circuit  
18 court of the circuit where the case or controversy arises, which  
19 court is hereby vested with original jurisdiction over the  
20 action.



1 (d) Notwithstanding any provision of law to the contrary,  
2 declaratory relief from the circuit court may be obtained for  
3 any action.

4 (e) Any party aggrieved by the decision of the circuit  
5 court may appeal in accordance with part I of chapter 641 and  
6 the appeal shall be given priority.

7 § -19 **Annual report.** The agency shall submit a complete  
8 and detailed report of its activities, expenditures, and  
9 results, including the progress of the visitor educational  
10 marketing plan developed pursuant to section -7, toward  
11 achieving the agency's strategic plan goals, to the governor and  
12 legislature at least twenty days prior to the convening of each  
13 regular session. The annual report shall include the  
14 descriptions and evaluations of programs funded, together with  
15 any recommendations the agency may make."

16 SECTION 2. Section 28-8.3, Hawaii Revised Statutes, is  
17 amended as follows:

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

19 "(a) No department of the State other than the attorney  
20 general may employ or retain any attorney, by contract or  
21 otherwise, for the purpose of representing the State or the





1 department in any litigation, rendering legal counsel to the  
2 department, or drafting legal documents for the department;  
3 provided that the foregoing provision shall not apply to the  
4 employment or retention of attorneys:

- 5 (1) By the public utilities commission, the labor and  
6 industrial relations appeals board, and the Hawaii  
7 labor relations board;
- 8 (2) By any court or judicial or legislative office of the  
9 State; provided that if the attorney general is  
10 requested to provide representation to a court or  
11 judicial office by the chief justice or the chief  
12 justice's designee, or to a legislative office by the  
13 speaker of the house of representatives and the  
14 president of the senate jointly, and the attorney  
15 general declines to provide such representation on the  
16 grounds of conflict of interest, the attorney general  
17 shall retain an attorney for the court, judicial, or  
18 legislative office, subject to approval by the court,  
19 judicial, or legislative office;
- 20 (3) By the legislative reference bureau;



# H.B. NO. 1375

- 1           (4) By any compilation commission that may be constituted
- 2                   from time to time;
- 3           (5) By the real estate commission for any action involving
- 4                   the real estate recovery fund;
- 5           (6) By the contractors license board for any action
- 6                   involving the contractors recovery fund;
- 7           (7) By the office of Hawaiian affairs;
- 8           (8) By the department of commerce and consumer affairs for
- 9                   the enforcement of violations of chapters 480 and
- 10                   485A;
- 11           (9) As grand jury counsel;
- 12           (10) By the Hawaii health systems corporation, or its
- 13                   regional system boards, or any of their facilities;
- 14           (11) By the auditor;
- 15           (12) By the office of ombudsman;
- 16           (13) By the insurance division;
- 17           (14) By the University of Hawaii;
- 18           (15) By the Kahoolawe island reserve commission;
- 19           (16) By the division of consumer advocacy;
- 20           (17) By the office of elections;
- 21           (18) By the campaign spending commission;



# H.B. NO. 1375

1       (19) By the [~~Hawaii tourism authority, as provided in~~  
2       ~~section 201B-2.5;~~] destination management agency, as  
3       provided in section       -3;

4       (20) By the division of financial institutions;

5       (21) By the office of information practices;

6       (22) By the school facilities authority;

7       (23) By the Mauna Kea stewardship and oversight authority;

8       or

9       (24) By a department, if the attorney general, for reasons  
10       deemed by the attorney general to be good and  
11       sufficient, declines to employ or retain an attorney  
12       for a department; provided that the governor waives  
13       the provision of this section."

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

15       "(c) Every attorney employed by any department on a full-  
16       time basis, except an attorney employed by the public utilities  
17       commission, the labor and industrial relations appeals board,  
18       the Hawaii labor relations board, the office of Hawaiian  
19       affairs, the Hawaii health systems corporation or its regional  
20       system boards, the department of commerce and consumer affairs  
21       in prosecution of consumer complaints, insurance division, the



1 division of consumer advocacy, the University of Hawaii, the  
2 [~~Hawaii tourism authority as provided in section 201B-2.5,~~]  
3 destination management agency as provided in section -3, the  
4 Mauna Kea stewardship and oversight authority, the office of  
5 information practices, or as grand jury counsel, shall be a  
6 deputy attorney general."

7 SECTION 3. Section 36-27, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) Except as provided in this section, and  
10 notwithstanding any other law to the contrary, from time to  
11 time, the director of finance, for the purpose of defraying the  
12 prorated estimate of central service expenses of government in  
13 relation to all special funds, except the:

- 14 (1) Special out-of-school time instructional program fund  
15 under section 302A-1310;
- 16 (2) School cafeteria special funds of the department of  
17 education;
- 18 (3) Special funds of the University of Hawaii;
- 19 (4) Convention center enterprise special fund under  
20 section [~~201B-8;~~] -11;
- 21 (5) Special funds established by section 206E-6;



- 1           (6) Aloha Tower fund created by section 206J-17;
- 2           (7) Funds of the employees' retirement system created by
- 3           section 88-109;
- 4           (8) Hawaii hurricane relief fund established under chapter
- 5           431P;
- 6           (9) Hawaii health systems corporation special funds and
- 7           the subaccounts of its regional system boards;
- 8           (10) Universal service fund established under section 269-
- 9           42;
- 10          (11) Emergency and budget reserve fund under section 328L-
- 11          3;
- 12          (12) Public schools special fees and charges fund under
- 13          section 302A-1130;
- 14          (13) Sport fish special fund under section 187A-9.5;
- 15          (14) Neurotrauma special fund under section 321H-4;
- 16          (15) Glass advance disposal fee established by section
- 17          342G-82;
- 18          (16) Center for nursing special fund under section 304A-
- 19          2163;
- 20          (17) Passenger facility charge special fund established by
- 21          section 261-5.5;



- 1       (18) Solicitation of funds for charitable purposes special  
2               fund established by section 467B-15;
- 3       (19) Land conservation fund established by section 173A-5;
- 4       (20) Court interpreting services revolving fund under  
5               section 607-1.5;
- 6       (21) Trauma system special fund under section 321-22.5;
- 7       (22) Hawaii cancer research special fund;
- 8       (23) Community health centers special fund;
- 9       (24) Emergency medical services special fund;
- 10      (25) Rental motor vehicle customer facility charge special  
11             fund established under section 261-5.6;
- 12      (26) Shared services technology special fund under section  
13             27-43;
- 14      (27) Automated victim information and notification system  
15             special fund established under section 353-136;
- 16      (28) Deposit beverage container deposit special fund under  
17             section 342G-104;
- 18      (29) Hospital sustainability program special fund under  
19             section 346G-4;
- 20      (30) Nursing facility sustainability program special fund  
21             under section 346F-4;



1 (31) Hawaii 3R's school improvement fund under section  
2 302A-1502.4;

3 (32) After-school plus program revolving fund under section  
4 302A-1149.5;

5 (33) Civil monetary penalty special fund under section 321-  
6 30.2; and

7 [+] (34) [+] Stadium development special fund under section  
8 109-3.5,

9 shall deduct five per cent of all receipts of all other special  
10 funds, which deduction shall be transferred to the general fund  
11 of the State and become general realizations of the State. All  
12 officers of the State and other persons having power to allocate  
13 or disburse any special funds shall cooperate with the director  
14 in effecting these transfers. To determine the proper revenue  
15 base upon which the central service assessment is to be  
16 calculated, the director shall adopt rules pursuant to chapter  
17 91 for the purpose of suspending or limiting the application of  
18 the central service assessment of any fund. No later than  
19 twenty days prior to the convening of each regular session of  
20 the legislature, the director shall report all central service  
21 assessments made during the preceding fiscal year."



1 SECTION 4. Section 36-30, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3 "(a) Each special fund, except the:  
4 (1) Special out-of-school time instructional program fund  
5 under section 302A-1310;  
6 (2) School cafeteria special funds of the department of  
7 education;  
8 (3) Special funds of the University of Hawaii;  
9 (4) Special funds established by section 206E-6;  
10 (5) Aloha Tower fund created by section 206J-17;  
11 (6) Funds of the employees' retirement system created by  
12 section 88-109;  
13 (7) Hawaii hurricane relief fund established under chapter  
14 431P;  
15 (8) Convention center enterprise special fund established  
16 under section [~~201E-8;~~] \_\_\_\_\_-11;  
17 (9) Hawaii health systems corporation special funds and  
18 the subaccounts of its regional system boards;  
19 (10) Universal service fund established under section 269-  
20 42;





- 1       (11)   Emergency and budget reserve fund under section 328L-
- 2                    3;
- 3       (12)   Public schools special fees and charges fund under
- 4                    section 302A-1130;
- 5       (13)   Sport fish special fund under section 187A-9.5;
- 6       (14)   Neurotrauma special fund under section 321H-4;
- 7       (15)   Center for nursing special fund under section 304A-
- 8                    2163;
- 9       (16)   Passenger facility charge special fund established by
- 10                   section 261-5.5;
- 11       (17)   Court interpreting services revolving fund under
- 12                    section 607-1.5;
- 13       (18)   Trauma system special fund under section 321-22.5;
- 14       (19)   Hawaii cancer research special fund;
- 15       (20)   Community health centers special fund;
- 16       (21)   Emergency medical services special fund;
- 17       (22)   Rental motor vehicle customer facility charge special
- 18                    fund established under section 261-5.6;
- 19       (23)   Shared services technology special fund under section
- 20                    27-43;



- 1 (24) Nursing facility sustainability program special fund  
2 established pursuant to section 346F-4;
- 3 (25) Automated victim information and notification system  
4 special fund established under section 353-136;
- 5 (26) Hospital sustainability program special fund under  
6 section 346G-4;
- 7 (27) Civil monetary penalty special fund under section 321-  
8 30.2; and
- 9 [+] (28) [+] Stadium development special fund under section  
10 109-3.5,

11 shall be responsible for its pro rata share of the  
12 administrative expenses incurred by the department responsible  
13 for the operations supported by the special fund concerned."

14 SECTION 5. Section 88-9, Hawaii Revised Statutes, is  
15 amended by amending subsection (d) to read as follows:

16 "(d) A retirant may be employed without reenrollment in  
17 the system and suffer no loss or interruption of benefits  
18 provided by the system or under chapter 87A if the retirant is  
19 employed:



- 1 (1) As an elective officer pursuant to section 88-42.6(c)  
2 or as a member of the legislature pursuant to section  
3 88-73(d);
- 4 (2) As a juror or precinct official;
- 5 (3) As a part-time or temporary employee excluded from  
6 membership in the system pursuant to section 88-43, as  
7 a session employee excluded from membership in the  
8 system pursuant to section 88-54.2, as the [~~president~~  
9 ~~and chief executive officer of the Hawaii tourism~~  
10 ~~authority excluded from membership in the system~~  
11 ~~pursuant to section 201B-2,~~] director of the  
12 destination management agency pursuant to section -  
13 2, or as any other employee expressly excluded by law  
14 from membership in the system; provided that:
- 15 (A) The retirant was not employed by the State or a  
16 county during the six calendar months prior to  
17 the first day of reemployment; and
- 18 (B) No agreement was entered into between the State  
19 or a county and the retirant, prior to the  
20 retirement of the retirant, for the return to  
21 work by the retirant after retirement;



- 1           (4) In a position identified by the appropriate  
2           jurisdiction as a labor shortage or difficult-to-fill  
3           position; provided that:
- 4           (A) The retirant was not employed by the State or a  
5           county during the twelve calendar months prior to  
6           the first day of reemployment;
- 7           (B) No agreement was entered into between the State  
8           or a county and the retirant, prior to the  
9           retirement of the retirant, for the return to  
10          work by the retirant after retirement; and
- 11          (C) Each employer shall contribute to the pension  
12          accumulation fund the required percentage of the  
13          rehired retirant's compensation to amortize the  
14          system's unfunded actuarial accrued liability; or
- 15          (5) As a teacher or an administrator in a teacher shortage  
16          area identified by the department of education or in a  
17          charter school or as a mentor for new classroom  
18          teachers; provided that:
- 19          (A) The retirant was not employed by the State or a  
20          county during the twelve calendar months prior to  
21          the first day of reemployment;



1 (B) No agreement was entered into between the State  
2 or a county and the retirant prior to the  
3 retirement of the retirant, for the return to  
4 work by the retirant after retirement; and

5 (C) The department of education or charter school  
6 shall contribute to the pension accumulation fund  
7 the required percentage of the rehired retirant's  
8 compensation to amortize the system's unfunded  
9 actuarial accrued liability."

10 SECTION 6. Section 84-18, Hawaii Revised Statutes, is  
11 amended by amending subsection (e) to read as follows:

12 "(e) Subject to the restrictions imposed in subsections  
13 (a) through (d), the following individuals shall not represent  
14 any person or business for a fee or other consideration  
15 regarding any legislative action or administrative action, as  
16 defined in section 97-1, for twelve months after termination  
17 from their respective positions:

- 18 (1) The governor;
- 19 (2) The lieutenant governor;
- 20 (3) The administrative director of the State;
- 21 (4) The attorney general;



# H.B. NO. 1375

- 1 (5) The comptroller;
- 2 (6) The chairperson of the board of agriculture;
- 3 (7) The director of finance;
- 4 (8) The director of business, economic development, and
- 5 tourism;
- 6 (9) The director of commerce and consumer affairs;
- 7 (10) The adjutant general;
- 8 (11) The superintendent of education;
- 9 (12) The chairperson of the Hawaiian homes commission;
- 10 (13) The director of health;
- 11 (14) The director of human resources development;
- 12 (15) The director of human services;
- 13 (16) The director of labor and industrial relations;
- 14 (17) The chairperson of the board of land and natural
- 15 resources;
- 16 (18) The director of public safety;
- 17 (19) The director of taxation;
- 18 (20) The director of transportation;
- 19 (21) The president of the University of Hawaii;
- 20 (22) The executive administrator of the board of regents of
- 21 the University of Hawaii;



# H.B. NO. 1375

- 1 (23) The administrator of the office of Hawaiian affairs;
- 2 (24) The chief information officer;
- 3 (25) The executive director of the agribusiness development  
4 corporation;
- 5 (26) The executive director of the campaign spending  
6 commission;
- 7 (27) The executive director of the Hawaii community  
8 development authority;
- 9 (28) The executive director of the Hawaii housing finance  
10 and development corporation;
- 11 (29) The [~~president and chief executive officer of the~~  
12 ~~Hawaii tourism authority;~~] director of the destination  
13 management agency;
- 14 (30) The executive officer of the public utilities  
15 commission;
- 16 (31) The state auditor;
- 17 (32) The director of the legislative reference bureau;
- 18 (33) The ombudsman;
- 19 (34) The permanent employees of the legislature, other than  
20 persons employed in clerical, secretarial, or similar  
21 positions;



- 1       (35) The administrative director of the courts;
- 2       (36) The executive director of the state ethics commission;
- 3       (37) The executive officer of the state land use
- 4               commission;
- 5       (38) The executive director of the natural energy
- 6               laboratory of Hawaii authority;
- 7       (39) The executive director of the Hawaii public housing
- 8               authority; and
- 9       (40) The first deputy to the chairperson of the commission
- 10              on water resource management;

11 provided that this subsection shall not apply to any person who  
12 has held one of the positions listed above only on an interim or  
13 acting basis and for a period of less than one hundred eighty-  
14 one days."

15       SECTION 7. Section 88-9, Hawaii Revised Statutes, is  
16 amended by amending subsection (d) to read as follows:

17       "(d) A retirant may be employed without reenrollment in  
18 the system and suffer no loss or interruption of benefits  
19 provided by the system or under chapter 87A if the retirant is  
20 employed:





- 1 (1) As an elective officer pursuant to section 88-42.6(c)  
2 or as a member of the legislature pursuant to section  
3 88-73(d);
- 4 (2) As a juror or precinct official;
- 5 (3) As a part-time or temporary employee excluded from  
6 membership in the system pursuant to section 88-43, as  
7 a session employee excluded from membership in the  
8 system pursuant to section 88-54.2, as the [~~president  
9 and chief executive officer of the Hawaii tourism  
10 authority~~] director of the destination management  
11 agency excluded from membership in the system pursuant  
12 to section 201B-2, or as any other employee expressly  
13 excluded by law from membership in the system;  
14 provided that:
- 15 (A) The retirant was not employed by the State or a  
16 county during the six calendar months prior to  
17 the first day of reemployment; and
- 18 (B) No agreement was entered into between the State  
19 or a county and the retirant, prior to the  
20 retirement of the retirant, for the return to  
21 work by the retirant after retirement;



- 1           (4) In a position identified by the appropriate  
2           jurisdiction as a labor shortage or difficult-to-fill  
3           position; provided that:
- 4           (A) The retirant was not employed by the State or a  
5           county during the twelve calendar months prior to  
6           the first day of reemployment;
- 7           (B) No agreement was entered into between the State  
8           or a county and the retirant, prior to the  
9           retirement of the retirant, for the return to  
10          work by the retirant after retirement; and
- 11          (C) Each employer shall contribute to the pension  
12          accumulation fund the required percentage of the  
13          rehired retirant's compensation to amortize the  
14          system's unfunded actuarial accrued liability; or
- 15          (5) As a teacher or an administrator in a teacher shortage  
16          area identified by the department of education or in a  
17          charter school or as a mentor for new classroom  
18          teachers; provided that:
- 19          (A) The retirant was not employed by the State or a  
20          county during the twelve calendar months prior to  
21          the first day of reemployment;



- 1 (B) No agreement was entered into between the State  
2 or a county and the retirant prior to the  
3 retirement of the retirant, for the return to  
4 work by the retirant after retirement; and
- 5 (C) The department of education or charter school  
6 shall contribute to the pension accumulation fund  
7 the required percentage of the rehired retirant's  
8 compensation to amortize the system's unfunded  
9 actuarial accrued liability."

10 SECTION 8. Section 225P-3, Hawaii Revised Statutes, is  
11 amended by amending subsection (c) to read as follows:

- 12 "(c) The commission shall include the following members:
- 13 (1) The chairs of the standing committees of the  
14 legislature with subject matter jurisdiction  
15 encompassing environmental protection and land use;
- 16 (2) The chairperson of the board of land and natural  
17 resources or the chairperson's designee, who shall be  
18 the co-chair of the commission;
- 19 (3) The director of the office of planning and sustainable  
20 development or the director's designee, who shall be  
21 the co-chair of the commission;



- 1           (4) The director of business, economic development, and  
2           tourism or the director's designee;
- 3           (5) The chairperson of the [~~board of directors of the~~  
4           ~~Hawaii tourism authority~~] destination management  
5           commission or the chairperson's designee;
- 6           (6) The chairperson of the board of agriculture or the  
7           chairperson's designee;
- 8           (7) The chief executive officer of the office of Hawaiian  
9           affairs or the officer's designee;
- 10          (8) The chairperson of the Hawaiian homes commission or  
11          the chairperson's designee;
- 12          (9) The director of transportation or the director's  
13          designee;
- 14          (10) The director of health or the director's designee;
- 15          (11) The adjutant general or the adjutant general's  
16          designee;
- 17          (12) The chairperson of the board of education or the  
18          chairperson's designee;
- 19          (13) The directors of each of the county planning  
20          departments, or the directors' designees; and  
21          (14) The manager of the coastal zone management program."



1 SECTION 9. Section 237-24.75, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§237-24.75 Additional exemptions.** In addition to the  
4 amounts exempt under section 237-24, this chapter shall not  
5 apply to:

- 6 (1) Amounts received as a beverage container deposit  
7 collected under chapter 342G, part VIII;
- 8 (2) Amounts received by the operator of the Hawaii  
9 convention center for reimbursement of costs or  
10 advances made pursuant to a contract with the [~~Hawaii~~  
11 ~~tourism authority under section 201B-7;~~] destination  
12 management agency under section -9; and
- 13 (3) Amounts received by a professional employer  
14 organization that is registered with the department of  
15 labor and industrial relations pursuant to chapter  
16 373L, from a client company equal to amounts that are  
17 disbursed by the professional employer organization  
18 for employee wages, salaries, payroll taxes, insurance  
19 premiums, and benefits, including retirement,  
20 vacation, sick leave, health benefits, and similar  
21 employment benefits with respect to covered employees



1 at a client company; provided that this exemption  
2 shall not apply to amounts received by a professional  
3 employer organization after:

4 (A) Notification from the department of labor and  
5 industrial relations that the professional employer  
6 organization has not fulfilled or maintained the  
7 registration requirements under this chapter; or

8 (B) A determination by the department that the  
9 professional employer organization has failed to pay  
10 any tax withholding for covered employees or any  
11 federal or state taxes for which the professional  
12 employer organization is responsible.

13 As used in this paragraph, "professional employer  
14 organization", "client company", and "covered  
15 employee" shall have the meanings provided in section  
16 373L-1."

17 SECTION 10. Section 237D-6.5, Hawaii Revised Statutes, is  
18 amended by amending subsection (b) to read as follows:

19 "(b) Except for the revenues collected pursuant to section  
20 237D-2(e), revenues collected under this chapter shall be



1 distributed in the following priority, with the excess revenues  
2 to be deposited into the general fund:

3 (1) \$1,500,000 shall be allocated to the Turtle Bay  
4 conservation easement special fund beginning July 1,  
5 2015, for the reimbursement to the state general fund  
6 of debt service on reimbursable general obligation  
7 bonds, including ongoing expenses related to the  
8 issuance of the bonds, the proceeds of which were used  
9 to acquire the conservation easement and other real  
10 property interests in Turtle Bay, Oahu, for the  
11 protection, preservation, and enhancement of natural  
12 resources important to the State, until the bonds are  
13 fully amortized;

14 (2) \$79,000,000 shall be allocated to the tourism special  
15 fund established under section -14; provided that:

16 (A) Of the \$79,000,000 allocated:

17 (i) \$1,000,000 shall be allocated for the  
18 operation of a Hawaiian center and the  
19 museum of Hawaiian music and dance; and

20 (ii) 0.5 per cent of the \$79,000,000 shall be  
21 transferred to a sub-account in the tourism



# H.B. NO. 1375

1                   special fund to provide funding for a safety  
2                   and security budget, in accordance with the  
3                   Hawaii tourism strategic plan 2005-2015; and  
4           (B) Of the revenues remaining in the tourism special  
5           fund after revenues have been deposited as  
6           provided in this paragraph and except for any sum  
7           authorized by the legislature for expenditure  
8           from revenues subject to this paragraph, funds  
9           shall be deposited into the tourism emergency  
10           special fund, established in section     -13, in a  
11           manner sufficient to maintain a fund balance of  
12           \$5,000,000 in the tourism emergency special fund;  
13       [+2+] (3) \$11,000,000 shall be allocated to the convention  
14           center enterprise special fund established under  
15           section [201B-8+]     -11; and  
16       [-3] ~~An allocation shall be deposited into the tourism~~  
17           ~~emergency special fund, established in section 201B-~~  
18           ~~10, in a manner sufficient to maintain a fund balance~~  
19           ~~of \$5,000,000 in the tourism emergency special fund;~~  
20           and]





1           (4) \$3,000,000 shall be allocated to the special land and  
2           development fund established under section 171-19;  
3           provided that the allocation shall be expended in  
4           accordance with the Hawaii tourism authority strategic  
5           plan for:

6           (A) The protection, preservation, maintenance, and  
7           enhancement of natural resources, including  
8           beaches, important to the visitor industry;

9           (B) Planning, construction, and repair of facilities;  
10          and

11          (C) Operation and maintenance costs of public lands,  
12          including beaches, connected with enhancing the  
13          visitor experience.

14          All transient accommodations taxes shall be paid into the  
15          state treasury each month within ten days after collection and  
16          shall be kept by the state director of finance in special  
17          accounts for distribution as provided in this subsection."

18          SECTION 11. Chapter 201B, Hawaii Revised Statutes, is  
19          repealed.

20          SECTION 12. Act 109, Session Laws of Hawaii 2022, is  
21          amended by amending section 15 to read as follows:



1           "SECTION 15. Act 1, Special Session Laws of Hawaii 2021,  
2 is amended by amending section 25 to read as follows:

3           "SECTION 25. This Act shall take effect on July 1, 2021;  
4 provided that:

- 5           (1) Parts VI and VII of this Act shall take effect on  
6           January 1, 2022;
- 7           (2) The amendments made to section 87A-42, Hawaii Revised  
8           Statutes, in section 8 of this Act shall take effect  
9           upon the reenactment of that section on June 30, 2023,  
10           pursuant to section 9 of Act 229, Session Laws of  
11           Hawaii 2021; and
- 12           (3) The amendments made to section 237D-6.5(b), Hawaii  
13           Revised Statutes, in section 13 of this Act, as  
14           amended by section 10 of Act       , Session Laws of  
15           Hawaii 2023, shall not be repealed when that  
16           subsection is reenacted on June 30, 2023, pursuant to  
17           section 9 of Act 229, Session Laws of Hawaii 2021.""

18           SECTION 13. All rights, powers, functions, and duties of  
19 the Hawaii tourism authority are transferred to the destination  
20 management agency.



1 All employees who occupy civil service positions and whose  
2 functions are transferred to the destination management agency  
3 by this Act shall retain their civil service status, whether  
4 permanent or temporary. Employees shall be transferred without  
5 loss of salary, seniority (except as prescribed by applicable  
6 collective bargaining agreements), retention points, prior  
7 service credit, any vacation and sick leave credits previously  
8 earned, and other rights, benefits, and privileges, in  
9 accordance with state personnel laws and this Act; provided that  
10 the employees possess the minimum qualifications and public  
11 employment requirements for the class or position to which  
12 transferred or appointed, as applicable; provided further that  
13 subsequent changes in status may be made pursuant to applicable  
14 civil service and compensation laws.

15 Any employee who, prior to this Act, is exempt from civil  
16 service and is transferred as a consequence of this Act may  
17 retain the employee's exempt status, but shall not be appointed  
18 to a civil service position as a consequence of this Act. An  
19 exempt employee who is transferred by this Act shall not suffer  
20 any loss of prior service credit, vacation or sick leave credits  
21 previously earned, or other employee benefits or privileges as a



1 consequence of this Act; provided that the employees possess  
2 legal and public employment requirements for the position to  
3 which transferred or appointed, as applicable; provided further  
4 that subsequent changes in status may be made pursuant to  
5 applicable employment and compensation laws. The director of  
6 destination management agency may prescribe the duties and  
7 qualifications of these employees and fix their salaries without  
8 regard to chapter 76, Hawaii Revised Statutes.

9 SECTION 14. All appropriations, records, equipment,  
10 machines, files, supplies, contracts, books, papers, documents,  
11 maps, and other personal property heretofore made, used,  
12 acquired, or held by the Hawaii tourism authority relating to  
13 the functions transferred to the destination management agency  
14 shall be transferred with the functions to which they relate.

15 SECTION 15. Sections 6E-18, 23-13, 23-76, 46-11, 171-173,  
16 and 206E-34, are amended by substituting the word "destination  
17 management agency" or "agency" wherever the word "Hawaii tourism  
18 authority" or "authority" appears, as the context requires.

19 SECTION 16. This Act shall take effect on June 29, 2023.



H.B. NO. 1375

1

INTRODUCED BY:

SO

JAN 25 2023



# H.B. NO. 1375

**Report Title:**

HTA; Repeal; Destination Management Agency; Tourism Special Fund

**Description:**

Establishes the powers, duties, and responsibilities of the destination management agency, including its director and commission. Establishes the tourism special fund, which receives an allocation from transient accommodations tax revenue. Repeals the Hawaii tourism authority.

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

