

A Bill for an Act Relating to the Labor Relations Appeals Board.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 103-3, Hawaii Revised Statutes, is amended to read as follows:

"§103-3 Employment of attorneys. No department of the State, other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the housing finance and development corporation, [or] the public utilities commission[;], or the labor and industrial relations appeals board;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund, the contractors license board in any action involving the contractors recovery fund, and the trustees in any action involving the travel agency recovery fund;
- (6) To grand jury counsel;
- (7) To the office of Hawaiian affairs;
- (8) To the department of commerce and consumer affairs; provided that its attorney shall be responsible for the prosecution of consumer complaints;
- (9) To the employees retirement system;
- (10) To the Hawaiian home lands trust individual claims review panel; or
- (11) In the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines representation or counsel, or approves a department's expenditures; provided that the governor thereupon waives the provision of this section.

For the purpose of this section the term "department of the State" means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed as a grand jury counsel, the department of commerce and consumer affairs in prosecution of consumer complaints, or the Hawaiian home lands trust individual claims review panel, shall become a deputy attorney general."

SECTION 2. Section 371-4, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) [The chairman of the board shall employ employees as may be required to carry out the board's duties, shall assign the work of the board to the members thereof and its employees and shall serve as administrative officer of the board. Employees of the board, other than clerical and stenographic employees, shall be exempt from chapters 76 and 77.] The chairperson of the appeal board shall be responsible for the administrative functions of the appeal board.

The appeal board may:

- (1) Appoint an executive officer and employ other employees as it deems necessary in the performance of its functions;
- (2) Set the duties and compensation of the executive officer and employees; and
- (3) Provide for the reimbursement of actual and necessary expenses incurred by the executive officer and employees in the performance of their duties, within the amounts made available by appropriations therefor.

Members of the appeal board and employees other than clerical and stenographic employees shall be exempt from chapters 76, 77, and 89. Clerical and stenographic employees shall be employed in accordance with chapters 76 and 77."

SECTION 3. Act 8, Special Session Laws of Hawaii 1993, is amended by amending subsection (b) of section -209 of the chapter established in section 2 of the Act to read as follows:

"(b) No department of the State, other than the attorney general, shall make any expenditure of public funds for the employment or retention by contract or otherwise of any attorney for the purpose of representing the State or such department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply:

- (1) To the housing finance and development corporation, [or] the public utilities commission[;], or the labor and industrial relations appeals board;
- (2) To any court or judicial or legislative officer of the State;
- (3) To the legislative reference bureau;
- (4) To such compilation commission as may be constituted from time to time;
- (5) To the real estate commission in any action involving the real estate recovery fund, the contractors license board in any action involving the contractors recovery fund, and the trustees in any action involving the travel agency recovery fund;
- (6) To grand jury counsel;
- (7) To the office of Hawaiian affairs;
- (8) To the department of commerce and consumer affairs; provided that its attorney shall be responsible for the prosecution of consumer complaints;
- (9) To the employees retirement system;
- (10) To the Hawaiian home lands trust individual claims review panel; or
- (11) In the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines representation or counsel, or approves a department's expenditures; provided that the governor thereupon waives the provision of this section.

For the purpose of this section the term "department of the State" means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed as a grand jury counsel, the department of commerce and consumer affairs in prosecution of consumer complaints, or the Hawaiian home lands trust individual claims review panel, shall become a deputy attorney general."

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SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval; provided that section 3 shall take effect on July 1, 1994.

(Approved June 7, 1994.)