

A Bill for an Act Relating to Statutory Revision: Amending, Reenacting, or Repealing Various Provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the Purpose of Correcting Errors and References, Clarifying Language, and Deleting or Repealing Obsolete or Unnecessary Provisions.

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

SECTION 1. Section 6E-8, Hawaii Revised Statutes, is amended to read as follows:

“§6E-8 Review of effect of proposed state projects. (a) Before any agency or officer of the State or its political subdivisions commences any project which may affect historic property or a burial site, the agency or officer shall advise the department and allow the department an opportunity for review of the effect of the proposed project on historic properties or burial sites, consistent with section 6E-43, especially those listed on the Hawaii register of historic places. The proposed project shall not be commenced, or in the event it has already begun, continued, until the department shall have given its written concurrence.

The department is to provide written concurrence or non-concurrence within ninety days after the filing of a request with the department. The agency or officer seeking to proceed with the project, or any person, may appeal the department's concurrence or non-concurrence to the Hawaii historic places review board. An agency, officer, or other person who is dissatisfied with the decision of the review board may apply to the governor who may request the Hawaii advisory council on historic preservation to report or who may take action as the governor deems best in overruling or sustaining the department.

(b) The department of Hawaiian home lands, prior to any proposed project relating to lands under its jurisdiction, shall consult with the department regarding the effect of the project upon historic property or a burial site.

(c) The State, its political subdivisions, agencies, and officers shall report to the department the finding of any historic property during any project and shall cooperate with the department in the investigation, recording, preservation, and salvage of the property.”

SECTION 2. Section 11-196, Hawaii Revised Statutes, is amended to read as follows:

“§11-196 Organizational report, candidate's committee. (a) The organizational report shall include:

- (1) The name and address of the candidate or individual, committee, or party filing the report;
- (2) The name, address, office sought, district, and party affiliation, of each candidate or individual whom the committee or party is supporting;
- (3) The names and addresses of the campaign treasurer and deputies together with the treasurer's written acceptance of appointment;
- (4) The names and addresses of the campaign chairperson and deputy campaign chairperson together with the campaign chairperson's written acceptance of appointment;
- (5) A list of all banks, safety deposit boxes, or other depositories used with each applicable account number;

- (6) The amount, name, and address, of each donor who has contributed an aggregate amount of more than \$100 since the last election applicable to the office being sought or to the ballot issue or question and the amount and date of deposit of each such contribution; and
- (7) In the case of a report by a committee or party supporting or opposing a ballot question or issue, all of the information described in paragraphs (2) to (6) and a description of the question or issue.

(b) Any change in information submitted in the organizational report with the exception of subsection (a)(6) shall be reported no later than 4:30 p.m. on the tenth calendar day after such change is brought to the attention of the candidate, committee, party, or campaign treasurer.”

SECTION 3. Section 103D-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Notwithstanding subsection (a), this chapter shall not apply to contracts by governmental bodies:

- (1) Solicited or entered into before July 1, 1994, unless the parties agree to its application to a contract solicited or entered into prior to July 1, 1994;
- (2) To disburse funds, irrespective of their source:
 - (A) For grants, subsidies, or purchases of services as those terms are defined in section 42D-1, made in accordance with standards provided by law as required by article VII, section 4, of the State Constitution; or by the counties pursuant to their respective charters or ordinances;
 - (B) To make payments to or on behalf of public officers and employees for salaries, fringe benefits, professional fees, or reimbursements;
 - (C) To satisfy obligations which the State is required to pay by law, including paying fees, permanent settlements, subsidies, or other claims, making refunds, and returning funds held by the State as trustee, custodian, or bailee;
 - (D) For entitlement programs, including public assistance, unemployment, and [workers] workers' compensation programs, established by state or federal law;
 - (E) For dues and fees of organizations of which the State or its officers and employees are members, including the National Association of Governors, the National Association of State and County Governments, and the Multi-State Tax Commission;
 - (F) For deposit, investment, or safekeeping, including expenses related to their deposit, investment, or safekeeping;
 - (G) To governmental bodies of the State; and
 - (H) As loans, under loan programs administered by a governmental body;
- (3) To procure goods, services, or construction from a governmental body other than the University of Hawaii bookstores, from the federal government, or from another state or its political subdivision;
- (4) [Procurement of] To procure goods or services, including the following:
 - (A) Services of expert witnesses for potential and actual litigation of legal matters involving the State, its agencies, and its officers and employees, including administrative quasi-judicial proceedings;
 - (B) Works of art for museum or public display;

- (C) Research and reference materials including books, maps, periodicals, and pamphlets, which are published in print, video, audio, magnetic, or electronic form;
 - (D) Meats and foodstuffs for the Kalaupapa settlement;
 - (E) Opponents for athletic contests;
 - (F) Utility services whose rates or prices are fixed by regulatory processes or agencies;
 - (G) Performances, including entertainment, speeches, and cultural and artistic presentations;
 - (H) Goods and services for commercial resale by the State;
 - (I) Services of printers, rating agencies, support facilities, fiscal and paying agents, and registrars for the issuance and sale of the State's or counties' bonds; and
 - [[J]] Travel arrangements purchased by the University of Hawaii for its intercollegiate athletic programs;
- which the policy office determines by rule or the chief procurement officer determines in writing is available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State; and
- (5) [Made by governmental bodies, or] Which are specific procurements [which are] expressly exempt from any or all of the requirements of this chapter by:
 - (A) References in state or federal law to provisions of this chapter or a section of this chapter, or references to a particular requirement of this chapter;
 - (B) Trade agreements, including the Uruguay Round General Agreement on Tariffs and Trade (GATT) which require certain non-construction and non-software development procurements by the comptroller to be conducted in accordance with its terms."

SECTION 4. Section 188-29, Hawaii Revised Statutes, is amended to read as follows:

"§188-29 Nets and traps. (a) It is unlawful for any person to use nets made of or using netting, or bullpen traps, with a stretched mesh of less than two inches, except that:

- [(1)] Persons engaged in sport fishing may use throw nets with stretched mesh of not less than one and one-half inches until December 31, 1994; thereafter, persons engaged in sport fishing may not use throw nets with stretched mesh of less than two inches;
- [(2)] (1) Pond owners or operators who hold a license issued under section 188-44 may use nets of smaller mesh to take young mullet or pua for stocking their fish ponds;
- [(3)] (2) Commercial marine licensees who hold a license issued under section 188-45 may use nets of smaller mesh to take nehu, iao, marquesan sardine, or any other species for which an open season may be declared by the department of land and natural resources for use as bait;
- [(4)] (3) All persons may use nets of smaller mesh to take shrimp or opae, opelu, makiawa, or mikiawa;
- [(5)] (4) Aquarium fish collectors with a valid aquarium fish permit issued by the department pursuant to section 188-31 may use nets of smaller mesh, but not throw nets, to fish for aquarium fish in conformance with the conditions of the permit, provided that noncommercial aquarium

fish collectors shall be limited to a combined total of five fish or aquatic life specimens per person per day;

- [(6)] (5) All persons may use a net with mesh of not less than one and one-half inches to take akule; provided that no akule measuring less than eight and one-half inches in total length from the tip of the snout to the tip of the tail shall be taken with a net during the months of July, August, September, and October;
- [(7)] (6) All persons engaged in surround net fishing with scuba, may use nets with mesh of not less than one and one-half inches only to bag and transport the fish captured with legal gear to the shore or the boat;
- [(8)] (7) All persons engaged in stationary monofilament gill net fishing may use monofilament gill netting with a stretched mesh of not less than two inches until December 31, 1996; thereafter it shall be unlawful for any person to use stationary monofilament gill nets made of or using monofilament gill netting with a stretched mesh of less than two and three-fourths inches; and
- [(9)] (8) All persons may use hand nets or scoop nets of smaller mesh to take fish or other marine life for noncommercial purposes only; provided that the net, including any handle and other attachment thereto, shall not exceed three feet in any dimension.

(b) It is unlawful for any person to use any type of trap which is not portable or which is more than ten feet in length or six feet in height or width. Except for traps of smaller mesh to take shrimp or opae, and for the entrance cone, it shall also be unlawful to use traps:

- (1) With netting having a stretched mesh of less than two inches; or
- (2) Made with plastic, wire, coated wire, or any other stiff material with a rigid mesh of less than two inches long by one inch wide[;

provided that existing traps otherwise prohibited by paragraph (2) which are registered with the department of land and natural resources by October 1, 1989, may be used until June 30, 1994].

(c) The department of land and natural resources may, pursuant to chapter 91, adopt rules relating to requirements for escape openings or devices on any type of nets or traps.

The rules shall include provisions describing the type, measurements, and locations of escape openings or devices on traps under this subsection and become effective three years after establishment.”

SECTION 5. Section 286-52, Hawaii Revised Statutes, is amended:

1. By amending subsection (b) to read as follows:

“(b) Within thirty calendar days thereafter, the transferee shall forward [both] the certificate of ownership so endorsed to the director of finance who shall file the same. Whenever a transferee fails to comply with these provisions, the director of finance shall charge a fee of \$50, in addition to the fee provided in section 286-51, for a new certificate of ownership.”

2. By amending subsection (l) to read as follows:

“(l) A licensed dealer who has forwarded a properly endorsed certificate of ownership to the director of finance shall be relieved of any civil liability, from the date the transferor delivers the motor vehicle into the transferee’s possession, which the transferor might otherwise subsequently incur by reason solely of being the registered owner of the vehicle; provided that a specific written authorization to forward the [certificates] certificate has been obtained from the transferee.”

SECTION 6. Section 342B-56, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) After June 30, 1995, any person may commence a civil action on that person’s own behalf against:

- (1) Any person (including the State and the director) who is alleged to be in violation of this chapter, including any emission standard or limitation or any order issued by the director;
- (2) The director where there is alleged a failure to perform any act or duty under this chapter which is not discretionary; or
- (3) Any person who proposes to construct or constructs any new or modified major emitting facility without a required permit or who is alleged to be in violation of any condition of such permit.

This subsection shall not apply before April 1, 1996 to violations of permits related to agricultural burning; provided further that the governor may extend this deadline for an additional three months [to accomplish the purposes of this Act].”

SECTION 7. Section 412:5-400, Hawaii Revised Statutes, is amended by amending the definition of “reciprocal region” to read as follows:

““Reciprocal region” means any one of the territories or countries of Guam, American Samoa, the Federated States of Micronesia, the Republic of Palau, the Commonwealth of the Northern [Marianas,] Mariana Islands, or the Republic of the Marshall Islands, only so long as:

- (1) Its economy is based on the United States dollar; and
- (2) Its laws allow a bank that is a Hawaii financial institution or its holding company to establish and operate a branch or acquire the assets or control of or merge with a bank or bank holding company in that territory or country, under terms and conditions which are substantially comparable to or less restrictive than the laws of this State concerning the commencement of operations, acquisitions, change of control and mergers of banks and bank holding companies.”

SECTION 8. Section 415A-2, Hawaii Revised Statutes, is amended by amending the definition of “professional service” to read as follows:

““Professional service” means any service which lawfully may be rendered only by persons licensed under chapters 442, 448, 453, 455, 459, 460, 461, 463E, 465, 466, 471, [554-2, and] 605, and section 554-2, and may not lawfully be rendered by a corporation organized under the Hawaii Business Corporation Act, chapter 415.”

SECTION 9. Section 415A-24, Hawaii Revised Statutes, is amended to read as follows:

“**§415A-24 Interrogatories by director.** The director may direct to any professional corporation organized to practice a profession within the jurisdiction of the director and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable the director to ascertain whether the corporation has complied with all of the provisions of this chapter applicable to the corporation. The interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the director, and the answers thereto shall be full and complete and shall be made in writing and under oath. If the interrogatories are directed to an individual, they shall be answered by

the individual, and if directed to a professional corporation, they shall be answered by the president, vice president, secretary, or assistant secretary thereof. The director shall certify to the attorney general, for any action the attorney general may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this chapter.

Interrogatories directed to an individual or a professional corporation by the director and the answers thereto shall not be open to public inspection nor shall the director disclose any facts or information obtained therefrom except insofar as [its] the director's official duty may require the same to be made public or in the event such interrogatories or the answers thereto are required for evidence in any criminal proceeding or any other action by this State."

SECTION 10. Section 415A-28, Hawaii Revised Statutes, is amended by amending its title to read as follows:

"§415A-28 [Applications and] Application to existing corporations."

SECTION 11. Section 425D-906, Hawaii Revised Statutes, is amended by amending its title to read as follows:

"[[§425D-906] Cancellation of registration.] Certificate of withdrawal."

SECTION 12. Section 443B-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Any collection agency which has filed a bond with the director and maintained that bond in full force and effect, and which has not filed an application and paid the registration fee within ninety days of June 6, 1987, shall submit an application in the same manner as a new applicant subject to the provisions of [section] sections 443B-4[,], and 443B-6[,], and 443B-7[.]"

SECTION 13. Section 448-15, Hawaii Revised Statutes, is amended to read as follows:

"§448-15 No corporation to practice dentistry; penalty. No corporation shall practice dentistry or engage therein, or hold itself out as being entitled to practice dentistry, or furnish dental services or dentists, or advertise under or assume the title of dentist or dental surgeon or equivalent title, or furnish dental advice for any compensation, or advertise or hold itself out with any other person or alone, that it has or owns a dental office or can furnish dental service, dentists, or dental surgeons, or solicit through itself, or its agents, officers, employees, directors, or trustees, dental patronage for any dentist or dental surgeon employed by any corporation; provided that nothing in this section shall prohibit a corporation from employing a dentist or dentists to render free dental services to its employees, nor shall it apply to corporations or associations in which the dental services were originated and are being conducted upon a purely charitable basis for the worthy poor, nor shall it apply to corporations or associations furnishing information or clerical services which can be furnished by persons not licensed to practice dentistry, to any person lawfully engaged in the practice of dentistry, when the dentist assumes full responsibility for the information and services, nor shall it apply to dental service corporations formed for the primary purpose of contracting with individuals, groups of individuals, and corporations for defraying or assuming the cost of services of dentists and dental surgeons and of contracting on behalf of dentists and

dental surgeons to furnish such services as provided in chapter 423, nor shall it apply to professional corporations as defined in chapter [416.] 415A. Any corporation violating this section shall be fined not less than \$200 or more than \$500 for each offense, and each day's violation shall be considered a separate offense.

Every association of persons engaged in the practice of dentistry under the name of an association or other title, shall cause to be displayed and kept in a conspicuous place at the entrance to its place of business the names of each and every person employed by the association in the practice of dentistry; and every person so employed by any association shall cause the person's name to be so displayed. Any person employed by the association whose name is not displayed as above provided shall be guilty of a failure to comply with this chapter and shall be punished as in this chapter provided; and the association, and the persons comprising the same, for failure to display the aforesaid names, shall be guilty of a failure to comply with this chapter and shall be punished as in this chapter provided."

SECTION 14. Section 468E-5, Hawaii Revised Statutes, is amended to read as follows:

"§468E-5 Eligibility for licensure. To be eligible for licensure by the board as a speech pathologist or audiologist, a person shall:

- (1) Possess at least a master's degree or its equivalent in the area of speech pathology or audiology, as the case may be, from an educational institution recognized by the board;
- (2) Submit to the board evidence of eligibility for meeting the requirements of the American [Speech and Hearing] Speech-Language-Hearing Association for the certificate of clinical competence in speech pathology [and/or audiology;] or audiology, or both; and
- (3) Pass a written examination approved by the board."

SECTION 15. Section 576D-1, Hawaii Revised Statutes, is amended by amending the definition of "department" to read as follows:

""Department" means the [department of social services and housing until June 30, 1987, and the] department of attorney general [from July 1, 1987], unless otherwise specified."

SECTION 16. Section 576D-2, Hawaii Revised Statutes, is amended to read as follows:

"[§576D-2] Designation of child support enforcement agency; duties. There is created the child support enforcement agency for the State as required under Title IV-D. [Until June 30, 1987, the agency shall be within the department of social services and housing. From July 1, 1987, the] The agency shall be within the department of the attorney general. The child support enforcement agency shall:

- (1) Be responsible for formulating the state child support enforcement plan as required under Title IV-D; and
- (2) Administer this chapter consistent with Title IV-D and applicable state laws."

SECTION 17. Section 46-1.6, Hawaii Revised Statutes, is repealed.

SECTION 18. Section 237D-3.5, Hawaii Revised Statutes, is repealed.

SECTION 19. Section 352D-8, Hawaii Revised Statutes, is repealed.

SECTION 20. Act 194, Session Laws of Hawaii 1992, is amended by amending section 20 to read as follows:

“SECTION 20. This Act shall take effect on July 1, 1992, and shall be repealed on July 1, 1996; provided that sections 42D-1, [42D-2,] 42D-3, 42D-4, 42D-5, 42D-6, [42D-7(a),] 42D-8, 42D-9, 42D-12(a), 42D-21(b) and (c), 42D-23, 42D-24(a), 42D-25, and 42D-31[, 42D-32, 42D-33, and 42D-34] shall be reenacted in the form in which they [read on the day before the approval of this Act.] were enacted by Act 335, Session Laws of Hawaii 1991; except as provided in Act 118, Session Laws of Hawaii 1995.”

SECTION 21. Act 27, Special Session Laws of Hawaii 1995, is amended:
1. By repealing section 6.

[“SECTION 6. Section 11-193, Hawaii Revised Statutes, is amended by amending the title and subsection (a) to read as follows:

“§11-193 Duties of the [lieutenant governor;] chief election officer; commission. (a) The principal duty of [the lieutenant governor as] the chief election officer is to regulate the election process. Under this subpart the [lieutenant governor’s] chief election officer’s duties are:

- (1) To develop and adopt reporting forms required by this subpart;
- (2) To adopt and publish a manual for all candidates and committees, describing the requirements of this subpart, including uniform and simple methods of recordkeeping;
- (3) To preserve all reports required by this subpart for at least five years from the date of receipt;
- (4) To permit the inspection, copying, or duplicating of any report required by this subpart pursuant to rules adopted by the commission; provided that no information or copies from the reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.”]

2. By amending section 13 to read as follows:

“SECTION 13. Sections 11-5[, 11-193,] and 26-1, Hawaii Revised Statutes, as amended by this Act, shall be amended to conform to amendments made to those sections by any acts passed by the legislature during the regular session of 1995, whether the effective dates of those acts are before or after the effective date of this Act.”

3. By amending section 15 to read as follows:

“SECTION 15. This Act shall take effect on July 1, 1995; provided that on June 30, 1999, this Act shall be repealed and sections 11-1, 11-2, 11-5, 11-191[, 11-193,] 11-194, 11-195, 11-216, 12-8, and 26-1, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the effective date of this Act.”

SECTION 22. This Act shall be amended to conform to all other acts passed by the legislature during this regular session of 1995, whether enacted before or after the effective date of this Act, unless the other acts specifically provide otherwise.

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SECTION 23. Statutory material to be repealed is bracketed.¹ New statutory material is underscored.

SECTION 24. This Act shall take effect upon its approval; provided that section 20 shall take effect on June 30, 1996.

(Approved April 22, 1996.)

Note

1. Edited pursuant to HRS §23G-16.5.