

ACT 18

H.B. NO. 2020

A Bill for an Act Relating to Obsolete Laws.

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

SECTION 1. The legislature finds that several laws in the Hawaii Revised Statutes and the Session Laws of Hawaii may now be deemed to be obsolete, or “functus”, in that they have accomplished their intended purpose and are now of no further force or effect. These are not laws that have “dropped dead” because of a separate sunset section, for example, that provides for their repeal on a certain date or for their reenactment in a certain form after a section is repealed. Rather, these are laws that have been rendered obsolete by their own terms, such as a sunset provision within the text of the section itself. These sections are repealed by operation of law but are nevertheless considered to be “on the books” because the acts that enacted them were not themselves repealed. Other types of obsolete laws that may continue to be on the books are laws that have been repealed by implication in a court case.

This Act repeals or makes other appropriate amendments to these sections in order to achieve the intent of the legislature and reduce the number of obsolete laws. A statute that remains in the printed text of the Hawaii Revised Statutes from year to year but which has been repealed by operation of law or by implication unnecessarily increases the size of the Hawaii Revised Statutes, thereby adding to production costs. Retention of such a statute may also create some confusion that the law, while repealed, is still retained “on the books”. Repealing or amending these sections, as appropriate, therefore assists in the removal of obsolete laws and helps to clarify which laws are of continuing force and effect.

PART I

SECTION 2. Section 2¹ of Act 11, Special Session Laws of 1995, enacted the interagency federal revenue maximization revolving fund, which was subsequently codified as section 29-24, Hawaii Revised Statutes. Both subsection (c) of section 29-24, as well as section 15(3) of Act 11, provided that on June 30, 1999, section 29-24 would be repealed. As such, section 29-24 would have been deemed to be repealed by operation of law on that date.

However, section 28 of Act 160, Session Laws of Hawaii 1999, which became effective on June 29, 1999, deleted section 15(3) of Act 11, one of the two provisions providing for the repeal of section 29-24. Sections 29 and 30 of Act 160 further provide for the use of moneys in the interagency federal revenue maximization revolving fund through fiscal year 2000-2001 by the departments of education and health. While the intent of the 1999 amendment was to make section 29-24 permanent, however, that amendment nevertheless failed to amend section 29-24 itself to remove the automatic repeal date in subsection (c) of that section.

The purpose of this part is therefore to amend section 29-24 by repealing subsection (c) of that section to conform to the intent of the 1999 amendment and remove ambiguity as to whether that section is repealed.

SECTION 3. Section 29-24, Hawaii Revised Statutes, is amended to read as follows:

“§29-24 Interagency federal revenue maximization revolving fund. (a) There is established in the state treasury an interagency federal revenue maximization revolving fund into which shall be deposited all funds and proceeds collected from the federal government and third-party payors for costs not previously claimed by the State, with the exception of proceeds collected for services provided by the Hawaii health systems corporation, for reimbursement by federally-funded state programs. For purposes of this chapter, federally-funded state programs include but shall not be limited to those federally-funded programs within the departments of human services, education, and health. Expenditures and transfers from the fund shall be made by the comptroller in proportional allocations established by the comptroller and the director of finance. Transfers shall be made to the department claiming the reimbursement for expenses incurred related to federal fund reimbursement claims and to the general fund of the State. Moneys in the fund may be expended for consultant services rendered under subsection (b).

(b) Notwithstanding any other law to the contrary, the comptroller, by contract, may retain the services of certified public accountants and other consultants to pursue and collect federal fund reimbursements, and perform other duties necessary to administer this section. At the option of the comptroller, consultants retained by contract under this subsection may be compensated on:

- (1) A fixed-price basis;
- (2) An hourly rate basis with or without a fixed cap; or
- (3) Through a contingent fee arrangement specified in the contract.

Such compensation shall be payable out of all sums the consultant recovers for the State.

[(c) All unobligated, unencumbered, or unexpended funds remaining in the interagency federal revenue maximization revolving fund as of June 30, 1999, shall revert to the general fund of the State. Upon final disbursement of remaining balances to the general fund on June 30, 1999, the interagency federal revenue maximization revolving fund shall be terminated.

(d)] (c) No later than twenty days prior to the convening of each regular session of the legislature, the comptroller shall submit to the legislature a report including the following information:

- (1) Itemized amounts of all federal reimbursements;
- (2) Description and amounts of all expenses incurred by the fund;
- (3) Method of compensation and amounts of compensation for all certified public accountants and other consultants retained by the comptroller to pursue and collect federal fund reimbursements and perform other duties necessary to administer this section;
- (4) Method of determining allocation of funds;
- (5) Amounts allocated by the comptroller; and
- (6) Fund balances.”

PART II

SECTION 4. Subsection (c) of section 87-25.5 provides for the repeal of that section on June 30, 1999. Since that section was never amended to extend its repeal date, section 87-25.5 was repealed by operation of law on that date. Accordingly, the purpose of this part is to repeal section 87-25.5.

SECTION 5. Section 87-25.5, Hawaii Revised Statutes, is repealed.

PART III

SECTION 6. Subsection (g) of section 235-55.9, Hawaii Revised Statutes, provides for the repeal of that section on June 30, 1997. Since that section was never amended to extend its repeal date, section 235-55.9 was repealed by operation of law on that date. Accordingly, the purpose of this part is to repeal section 235-55.9.

SECTION 7. Section 235-55.9, Hawaii Revised Statutes, is repealed.

PART IV

SECTION 8. In the case of Gardens at West Maui v. County of Maui, 90 H. 334, 978 P.2d 772 (1999), the Hawaii supreme court found section 248-2, Hawaii Revised Statutes, to have been repealed by implication. That section allows the council of each county to increase or decrease real property taxes in that county for each tax year and provides for a determination of tax rates.

In 1977, section 248-2 was amended to preclude differential tax rates. However, article VIII, section 3 of the Hawaii Constitution, which expressly transferred to the counties broad powers of real property taxation and which contains no provisions limiting or restricting the tax rate structure determined by the counties, and section 246A-2, Hawaii Revised Statutes, which implemented that constitutional amendment in 1980, were enacted subsequent to the 1977 amendment to section 248-2, thereby fully superseding that section, according to the supreme court. According to the court: “The participants of the 1978 constitutional convention and the 1980 legislature are presumed to have been aware of the 1977 amendment to HRS §248-2 and are therefore presumed to have repealed it by implication.” Id., 90 H. at 341.

Because article VIII, section 3 of the Hawaii Constitution and section 246A-2 covered the entire subject of the counties’ real property taxation power and embraced the entire law on that matter, section 248-2, by limiting Maui county’s real property taxation powers, was found by the court to be in conflict and was repealed

by implication. Accordingly, the purpose of this part is to repeal section 248-2, Hawaii Revised Statutes.

SECTION 9. Section 248-2, Hawaii Revised Statutes, is repealed.

PART V

SECTION 10. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 11. Statutory material to be repealed is bracketed.² New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval.

(Approved April 17, 2000.)

Notes

1. Section "2" substituted for section "5".
2. Edited pursuant to HRS §23G-16.5.