

ACT 15

H.B. NO. 17

A Bill for an Act Relating to Economic Emergency.

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

SECTION 1. The September 11, 2001, terrorist attacks on the United States have severely impacted Hawaii's economy. Business experienced catastrophic revenue losses as a result of decreases in the number of visitors to Hawaii. The nation has been warned to expect the continuation of the war on terrorism as well as continued losses due to lagging consumer confidence. With the increased risk of further terrorist attacks around the world, the economic welfare of the State is further threatened.

The purpose of this Act is to confer temporarily upon the governor certain powers to provide immediate relief to facilitate continuity of business activities and services, minimize employee layoffs, and prevent endangerment of public health, safety, or welfare, during a period of economic emergency.

SECTION 2. (a) Declaration of economic emergency. The governor may issue a proclamation declaring an economic emergency for the period from September 11, 2001, to April 30, 2002, if the governor finds that, during this time period, in addition to any determination that the slowdown of business activity in the State poses an imminent or present danger to the public health, safety, or welfare, there has been a two hundred per cent statewide increase in initial claims filed for unemployment benefits, other than claims resulting from a labor dispute, when compared with initial claims filed in the corresponding week of the preceding calendar year.

(b) Upon the declaration of the economic emergency, the governor may exercise emergency powers under this Act to provide relief during the period of the economic emergency to residents of the State who, as a result of the September 11, 2001, terrorist attacks have experienced substantial monetary losses. The relief provided under this Act shall be to facilitate continuity of business activities and services, minimize employee layoffs, and prevent endangerment of public health, safety, or welfare.

(c) Upon the declaration of an economic emergency, the governor shall convene an advisory committee composed of the president of the senate, the speaker of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives. The governor, through the advisory committee, shall inform the legislature and the public on the exercise of emergency powers under this Act.

SECTION 3. Suspension of statutes and rules. (a) The governor may suspend, in whole or in part, any statute, rule, or order only to implement measures relating to:

- (1) Grant-in-aid programs to provide food for Hawaii's needy;
- (2) Programs to provide aid for persons exiting welfare after the maximum five years on November 30, 2001, for housing, childcare, clothing, and school supplies;
- (3) Programs of the housing and community development corporation of Hawaii that provide financial assistance to Hawaii's needy;
- (4) Establishment of a temporary health insurance program to be implemented by the department of human services;
- (5) The creation of a temporary state additional benefits program to provide extended unemployment insurance benefits;

- (6) Increasing filing thresholds for taxpayers filing withholding, general excise, use, transient accommodations, and rental motor vehicle and tour vehicle surcharge tax returns;
- (7) Imposing the general excise tax, rather than the public service company tax, on transportation service providers;
- (8) Implementation of an integrated marketing plan to market and promote the State of Hawaii as a visitor destination;
- (9) Marketing the safety of and increased security at state airports;
- (10) Strengthening security at state airports, harbors, and highways;
- (11) Transferring funds from the Hawaii tobacco settlement fund to the emergency budget and reserve fund as authorized by the third special session of the twenty-first legislature;
- (12) Establishment and implementation of an emergency environmental workforce to address environmental clearance and eradication services,

when the governor determines that strict compliance with any statute, rule, or order would prevent, hinder, or delay the governor's efforts to facilitate continuity of business activities and services, or when written evidence is submitted by the appropriate state department or agency showing that the health or living standards of a substantial number of individuals are immediately at risk requiring relief such as welfare assistance, unemployment compensation, or health insurance.

(b) The governor shall provide public notice prior to the effective date whenever a statute, rule, or order is suspended in the same manner required for the publication of rules under section 4.

(c) The governor shall not suspend any provision of this Act.

SECTION 4. Adoption of rules. The governor may adopt rules that are required for fair, just, nondiscriminatory, and orderly administration of the emergency powers granted in section 3 of this Act to provide immediate relief during the economic emergency period; provided that reasonable classifications, exceptions, and exemptions may be made and granted to effectuate the emergency powers. Chapter 91, Hawaii Revised Statutes, shall not apply to these rules. Rules authorized by this Act shall be adopted by the governor and become effective on a specified date. Prior to the effective date, the rules shall be published pursuant to section 1-28.5, Hawaii Revised Statutes, or in lieu of publication and when immediate adoption of rules is necessary, by radio or television broadcast, on an official state website on the Internet, or such other means as may be available; provided that the rules shall be published thereafter pursuant to section 1-28.5, Hawaii Revised Statutes, at the earliest practicable date.

SECTION 5. Existing state contracts. (a) The governor may suspend, waive, or defer any contract obligations owed to the State up to April 30, 2002, and upon such terms and conditions as shall be necessary to minimize losses that are attributable to the economic emergency. For the purposes of this section, the term "contracts" includes leases, including agricultural leases with the department of land and natural resources or department of agriculture; land licenses; land permits; easements; concessions, including airport concessions; and subsidies and grants that have been awarded, extended, or renewed pursuant to law and rules.

(b) A person under contract with the State may be eligible for consideration for relief if the person requests such relief and satisfies the following conditions:

- (1) The person under contract with the State submits:
 - (A) Written evidence proving the amount and the extent of any losses attributable to the economic emergency; and
 - (B) An accounting of any insurance or federal benefit or assistance received or anticipated due to the economic emergency; and

- (2) The losses, at a minimum, must be at least a fifteen per cent reduction in the volume of business (including the volume of any business upon which the person under contract with the State must pay to the State rents, fees, or other amounts to the department or agency attributable to such volume of business) covered by the contract for a period of at least thirty days after September 10, 2001, computed on the average monthly gross income attributable to the business covered by the contract for the shorter of the following periods:
- (A) The six months just prior to September 11, 2001; or
 - (B) As long as the person under contract with the State has had the contract with the State.

In computing the loss under paragraph (2), the person under contract shall appropriately increase the volume of business by any amounts reported in paragraph (1)(B). The written evidence required to be submitted to the department or agency by the person under contract with the State seeking relief under this paragraph must include at least a weekly submission of daily sales and activity data, clearly indicating sales and activity volume, the revenue received, derived, or realized from or attributable to the sales and activities, and such other sales and activity data deemed appropriate by the department or agency; and

- (3) If the person under contract with the state department of transportation is an airline or air carrier, the person may qualify for the relief described in this section if the person satisfies paragraph (1) and, in lieu of paragraph (2), the following conditions:
- (A) The losses suffered by the airline or air carrier comprise at least a fifteen per cent reduction in the volume and number of passengers enplaned and deplaned or cargo handled, at state airports by the airline or air carrier for a period of at least thirty days, computed on the average monthly volume of passengers enplaned and deplaned or cargo handled, as appropriate, for the six months just prior to September 11, 2001;
 - (B) Each such airline and air carrier submits at least weekly to the department of transportation traffic reports on aircraft operations, including the daily flight schedules and the following for each aircraft landing and taking off from a state airport: volume and number of passengers enplaned and deplaned, volume and type of cargo handled, type of aircraft, passenger and cargo capacity, date of landing or take-off, and origin and destination.

SECTION 6. Notwithstanding section 261-7, Hawaii Revised Statutes, and section 5 of this Act, the governor may waive airport landing fees, and airport system support charges during the period of economic emergency. Each airline and air carrier receiving relief under this section shall submit at least weekly to the department of transportation traffic reports on aircraft operations, including the daily flight schedules and for each aircraft landing and taking off from a state airport, the volume and number of passengers enplaned and deplaned, volume and type of cargo handled, type of aircraft, passenger and cargo capacity, the date of landing or take-off, and origin and destination.

SECTION 7. The powers and authority conferred upon the governor by this Act are in addition to any other powers or authority conferred upon the governor by the laws of the United States and of the State for the same or like purpose, and shall not be construed as abrogating, limiting, or modifying any such power or authority.

SECTION 8. Monthly reports to the legislature. The governor shall submit a monthly report to the legislature, or if the legislature is not in session, to its presiding officers, to keep the legislature apprised of all actions taken under this Act. The monthly reports shall include detailed information, by department or agency, on each action taken under this Act, including the reasons for such action, the names of all businesses and contractors benefiting by such actions, the benefit provided by any insurance or federal agency, amounts expended, and the source of funding for each expenditure.

SECTION 9. Effect of this Act on other laws and obligations. (a) All laws inconsistent with this Act or any rule adopted under the authority of this Act, shall be suspended during the period of the economic emergency and to the extent that the suspension is necessary to effectuate the purposes of this Act.

(b) All actions taken under this Act shall comply with applicable federal laws and regulations and shall not jeopardize the receipt of any federal aid or impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or any such agency.

(c) The State and any agency thereof shall remain obligated to collect and realize sufficient revenue to meet the expenditures of the State or any agency thereof in carrying out its public duties.

SECTION 10. Upon the repeal of this Act:

- (1) Any relief granted, including any benefit or privilege resulting from any action taken by the governor under this Act, shall cease;
- (2) All statutes, rules, or orders suspended, and all contract obligations that were waived, suspended, deferred, or modified by the governor under this Act shall be reinstated in the form that existed on the day before the effective date of this Act; and
- (3) All rules adopted by the governor under this Act shall terminate.

SECTION 11. 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 12. Section 171-13, Hawaii Revised Statutes, is amended to read as follows:

“§171-13 Disposition of public lands. Except as otherwise provided by law and subject to other provisions of this chapter, the board may:

- (1) Dispose of public land in fee simple, by lease, lease with option to purchase, license, or permit; and
- (2) Grant easement by direct negotiation or otherwise for particular purposes in perpetuity on such terms as may be set by the board, subject to reverter to the State upon termination or abandonment of the specific purpose for which it was granted, provided the sale price of such easement shall be determined pursuant to section 171-17(b).

No person shall be eligible to purchase or lease public lands, or to be granted a license, permit, or easement covering public lands, who has had during the five years preceding the date of disposition a previous sale, lease, license, permit, or easement covering public lands cancelled for failure to satisfy the terms and conditions thereof[-], unless such cancellation relates to a breach or default by the person in payments to any agency of the State due to losses in volume of business or monthly

gross income suffered by the person during a period of economic emergency declared by the governor in accordance with chapter 209.”

SECTION 13.¹ This Act shall take effect upon its approval and shall be repealed on April 30, 2002.

(Approved November 3, 2001.)

Note

1. No Ramseyer clause.