

A BILL FOR AN ACT **VETO OVERRIDE**

RELATING TO THE HAWAII TOURISM AUTHORITY.

Act No. 5
Approved: [Signature]
Dated: July 15, 2009

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

1 SECTION 1. Chapter 201B, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§201B- Applicability of Hawaii public procurement code;
5 convention center contractor; construction contracts. The
6 construction contracts for the maintenance of the convention
7 center facility by the private contractor that operates the
8 convention center, by its direct or indirect receipt of, and its
9 expenditure of, public funds from the department of business,
10 economic development, and tourism or the authority, or both,
11 shall be subject to part III of chapter 103D."

12 SECTION 2. Section 102-2, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) The bidding requirements of subsection (a) shall not
15 apply to concessions or space on public property set aside for
16 the following purposes:



- 1 (1) For operation of ground transportation services and
2 parking lot operations at airports, except for motor
3 vehicle rental operations under chapter 437D;
- 4 (2) For lei vendors;
- 5 (3) For airline and aircraft operations;
- 6 (4) For automatic teller machines and vending machines,
7 except vending machines located at public schools
8 operated by blind or visually handicapped persons in
9 accordance with section 302A-412;
- 10 (5) For operation of concessions set aside without any
11 charge;
- 12 (6) For operation of concessions by handicapped or blind
13 persons; except concessions operated in the public
14 schools by blind or visually handicapped persons in
15 accordance with section 302A-412;
- 16 (7) For operation of concessions on permits revocable on
17 notice of thirty days or less; provided that no such
18 permits shall be issued for more than a one year
19 period;
- 20 (8) For operation of concessions or concession spaces for
21 a beach service association dedicated to the
22 preservation of the Hawaii beach boy tradition,



1 incorporated as a nonprofit corporation in accordance
2 with state law, and whose members are appropriately
3 licensed or certified as required by law;

4 (9) For operation of concessions at county zoos, botanic
5 gardens, or other county parks which are
6 environmentally, culturally, historically, or
7 operationally unique and are supported, by nonprofit
8 corporations incorporated in accordance with state law
9 solely for purposes of supporting county aims and
10 goals of the zoo, botanic garden, or other county
11 park, and operating under agreement with the
12 appropriate agency solely for such purposes, aims, and
13 goals;

14 (10) For operation of concessions that furnish goods or
15 services for which there is only one source, as
16 determined by the head of the awarding government
17 agency in writing that shall be included in the
18 contract file; and

19 ~~[(11) For operation of concession or concession spaces at~~
20 ~~the convention center under chapter 201B; and~~

21 ~~[(12)~~ (11) For any of the operations of the Hawaii health
22 systems corporation and its regional system boards."



1 SECTION 3. Section 201-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§201-3 Specific research and promotional functions of the
4 department. Without prejudice to its general functions and
5 duties, the department of business, economic development, and
6 tourism shall have specific functions in the following areas:

7 (1) Industrial development. The department shall
8 [determine]:

9 (A) Determine through technical and economic surveys
10 the profit potential of new or expanded
11 industrial undertakings; [develop]

12 (B) Develop through research projects and other means
13 new and improved industrial products and
14 processes; [promote]

15 (C) Promote studies and surveys to determine consumer
16 preference as to design and quality and to
17 determine the best methods of packaging,
18 transporting, and marketing the State's
19 industrial products; [disseminate]

20 (D) Disseminate information to assist the present
21 industries of the State, to attract new
22 industries to the State, and to encourage capital



1 investment in present and new industries in the
2 [~~State, assist~~] state;

3 (E) Assist associations of producers and distributors
4 of industrial products to introduce these
5 products to consumers; and [~~make~~]

6 (F) Make grants or contracts as may be necessary or
7 advisable to accomplish the foregoing;

8 (2) Land development. The department shall [~~encourage~~]:

9 (A) Encourage the most productive use of all land in
10 the [~~State~~] state in accordance with a general
11 plan developed by the department; [~~encourage~~]

12 (B) Encourage the improvement of land tenure
13 practices on leased private lands; [~~promote~~]

14 (C) Promote an informational program directed to
15 landowners, producers of agricultural and
16 industrial commodities, and the general public
17 regarding the most efficient and most productive
18 use of the lands in the [~~State,~~] state; and
19 [~~make~~]

20 (D) Make grants or contracts as may be necessary or
21 advisable to accomplish the foregoing;

22 (3) Credit development. The department shall [~~conduct~~]:



1 (C) Assist new and emerging industry with good growth
2 potential or prospects in jobs, exports, and new
3 products.

4 The industrial and economic promotional activities of
5 the department may include the use of literature,
6 advertising, demonstrations, displays, market testing,
7 lectures, travel, motion picture and slide films, and
8 other promotional and publicity devices as may be
9 appropriate;

10 ~~(5) Tourism research and statistics. The department shall~~
11 ~~maintain a program of research and statistics for the~~
12 ~~purpose of:~~

13 ~~(A) Measuring and analyzing tourism trends;~~

14 ~~(B) Providing information and research to assist in~~
15 ~~the development and implementation of state~~
16 ~~tourism policy;~~

17 ~~(C) Encouraging and arranging for the conduct of~~
18 ~~tourism research and information development~~
19 ~~through voluntary means or through contractual~~
20 ~~services with qualified agencies, firms, or~~
21 ~~persons; and~~



1 ~~(D) Providing tourism information to policy makers,~~
2 ~~the public, and the visitor industry. This~~
3 ~~includes:~~

4 ~~(i) Collecting and publishing visitor related~~
5 ~~data including visitor arrivals, visitor~~
6 ~~characteristics and expenditures;~~

7 ~~(ii) Collecting and publishing hotel related~~
8 ~~statistics including the number of units~~
9 ~~available, occupancy rates, and room rates;~~

10 ~~(iii) Collecting and publishing airline related~~
11 ~~data including seat capacity and number of~~
12 ~~flights;~~

13 ~~(iv) Collecting information and conducting~~
14 ~~analyses of the economic, social, and~~
15 ~~physical impacts of tourism on the State;~~

16 ~~(v) Conducting periodic studies of the impact of~~
17 ~~ongoing marketing programs of the Hawaii~~
18 ~~tourism authority on Hawaii's tourism~~
19 ~~industry, employment in Hawaii, state taxes,~~
20 ~~and the State's lesser known and~~
21 ~~underutilized destinations; and~~



1 ~~(vi) Cooperate with the Hawaii tourism authority~~
2 ~~and provide it with the above information in~~
3 ~~a timely manner;]~~ and

4 [-6-] (5) Self-sufficiency standard. The department shall
5 establish and update biennially a self-sufficiency
6 standard that shall incorporate existing methods of
7 calculation, and shall reflect, at a minimum, costs
8 relating to housing, food, child care, transportation,
9 health care, clothing and household expenses, federal
10 and state tax obligations, family size, children's
11 ages, geography, and the number of household wage
12 earners. The department shall report to the
13 legislature concerning the self-sufficiency standard
14 no later than twenty days prior to the convening of
15 the regular session of 2009, and every odd-numbered
16 year thereafter. The recommendations shall address,
17 among other things, the ~~[utilization]~~ use of any
18 federal funding that may be available for the purposes
19 of establishing and updating the self-sufficiency
20 standard.

21 The department shall be the central agency to coordinate
22 film permit activities in the ~~[State.]~~ state."



1 SECTION 4. Section 201B-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§201B-2 Hawaii tourism authority; establishment; board;
4 ~~[staff.]~~ president and chief executive officer. (a) There is
5 established the Hawaii tourism authority, which shall be a body
6 corporate and a public instrumentality of the State, for the
7 purpose of implementing this chapter. The authority shall be
8 placed within the department of business, economic development,
9 and tourism for administrative purposes only.

10 (b) The authority shall be headed by a policy-making board
11 of directors ~~[which consists]~~ that shall consist of twelve
12 ~~[public, voting]~~ members ~~[, and four ex officio nonvoting~~
13 ~~members]~~; provided that:

14 (1) ~~[Twelve public, voting]~~ The members shall be appointed
15 by the governor as provided in section 26-34, except
16 as otherwise provided by law;

17 (2) The ~~[twelve public, voting]~~ members shall ~~[be composed~~
18 ~~of]~~ include at least one representative each from the
19 city and county of Honolulu and the counties of
20 Hawaii, Kauai, and Maui; the remaining ~~[public]~~
21 members shall be appointed at-large;



- 1 (3) ~~[Of the twelve public, voting members, three]~~ Three
2 members shall be appointed by the governor from a list
3 of three names submitted for each appointment by the
4 president of the senate, and three members shall be
5 appointed by the governor from a list of three names
6 submitted for each appointment by the speaker of the
7 house of representatives; provided that if fewer than
8 three names are submitted for each appointment, the
9 governor may disregard the list;
- 10 (4) At least six ~~[of the twelve public, voting]~~ members
11 shall have knowledge, experience, and expertise in the
12 area of visitor industry management, marketing,
13 promotion, transportation, retail, entertainment, or
14 visitor attractions, and at least one shall have
15 knowledge, experience, and expertise in the area of
16 Hawaiian cultural practices; provided that no more
17 than three members shall represent, be employed by, or
18 be under contract to any sector of the industry
19 represented on the board;
- 20 (5) The governor shall make appointments to ensure the
21 fulfillment of all requirements; provided that any
22 appointments made after July 1, 2002, shall be made to



1 fulfill the requirements in place when the
2 appointments are made;

3 ~~[(6) The director of business, economic development, and
4 tourism, or a designated representative, shall be an
5 ex officio nonvoting member,~~

6 ~~(7) The director of transportation, or a designated
7 representative, shall be an ex officio nonvoting
8 member,~~

9 ~~(8) The chairperson of the board of land and natural
10 resources, or a designated representative, shall be an
11 ex officio nonvoting member,~~

12 ~~(9) The executive director of the state foundation on
13 culture and the arts, or a designated representative,
14 shall be an ex officio nonvoting member,~~] and

15 ~~[(10)]~~ (6) No person who has served as a member of the board
16 of directors of the Hawaii Visitors and Convention
17 Bureau shall be eligible to sit as a [public, voting]
18 member of the board of directors of the Hawaii tourism
19 authority until at least two years have expired
20 between the person's termination from service on the
21 Hawaii Visitors and Convention Bureau board and the



1 person's appointment to the authority's board of
2 directors.

3 (c) ~~[The public members]~~ Members shall be appointed by the
4 governor for terms of four years. Each ~~[public]~~ member shall
5 hold office until the member's successor is appointed and
6 qualified. Section 26-34 shall be applicable insofar as it
7 relates to the number of terms and consecutive number of years a
8 member may serve on the board.

9 (d) The board shall elect a chairperson from among the
10 ~~[voting] members. [The director of business, economic~~
11 ~~development, and tourism or the designated representative shall~~
12 ~~not be chairperson of the board.]~~

13 (e) Seven ~~[voting]~~ members shall constitute a quorum and a
14 minimum of seven affirmative votes shall be necessary for all
15 actions by the authority. The members shall serve without
16 compensation, but shall be reimbursed for expenses, including
17 traveling expenses, necessary for the performance of their
18 duties.

19 (f) The board shall appoint ~~[an executive director,]~~ one
20 person to serve as president and chief executive officer, exempt
21 from chapters 76 and 88 who shall oversee the authority staff;
22 provided that the compensation package, including salary, shall



1 not exceed nine per cent of the five per cent authorized for
2 administrative expenses under section 201B-11(c); and provided
3 further that the compensation package shall not include private
4 sector moneys or other contributions. The board shall set the
5 ~~[executive director's]~~ president and chief executive officer's
6 duties, responsibilities, holidays, vacations, leaves, hours of
7 work, and working conditions. It may grant ~~[such]~~ other
8 benefits as it deems necessary.

9 ~~[The board may appoint a sports coordinator, exempt from~~
10 ~~chapters 76, 78, and 88, who shall provide management services~~
11 ~~for all sporting events supported through the authority.~~

12 ~~(g) The authority may employ persons not subject to~~
13 ~~chapters 76 and 78 to perform and execute the functions of the~~
14 ~~authority.] "~~

15 SECTION 5. Section 201B-3, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) Except as otherwise limited by this chapter, the
18 authority may:

- 19 (1) Sue and be sued;
- 20 (2) Have a seal and alter the same at pleasure;
- 21 (3) ~~[Make]~~ Through its president and chief executive
22 officer, make and execute contracts and all other



1 instruments necessary or convenient for the exercise
2 of its powers and functions under this chapter;
3 provided that the authority may enter into contracts
4 and agreements for a period of up to five years,
5 subject to the availability of funds; and provided
6 further that the authority may enter into agreements
7 for the use of the convention center facility for a
8 period of up to ten years;

9 (4) Make and alter bylaws for its organization and
10 internal management;

11 (5) Unless otherwise provided in this chapter, adopt rules
12 in accordance with chapter 91 with respect to its
13 projects, operations, properties, and facilities;

14 (6) Through its [~~executive director~~] president and chief
15 executive officer, represent the authority in
16 communications with the governor and the legislature;

17 (7) Through its [~~executive director,~~] president and chief
18 executive officer, provide for the appointment of
19 officers, agents, a sports coordinator, and employees,
20 subject to the approval of the board, prescribing
21 their duties and qualifications, and fixing their
22 salaries, without regard to chapters 76 and 78, if



- 1 there is no anticipated revenue shortfall in the
2 tourism special fund and funds have been appropriated
3 by the legislature and allotted as provided by law;
- 4 (8) Through its [~~executive director~~] president and chief
5 executive officer, purchase supplies, equipment, or
6 furniture;
- 7 (9) Through its [~~executive director~~] president and chief
8 executive officer, allocate the space or spaces that
9 are to be occupied by the authority and appropriate
10 staff;
- 11 (10) [~~Engage~~] Through its president and chief executive
12 officer, engage the services of qualified persons to
13 implement the State's tourism marketing plan or
14 portions thereof as determined by the authority;
- 15 (11) [~~Engage~~] Through its president and chief executive
16 officer, engage the services of consultants on a
17 contractual basis for rendering professional and
18 technical assistance and advice;
- 19 (12) Procure insurance against any loss in connection with
20 its property and other assets and operations in
21 amounts and from insurers as it deems desirable;



- 1 (13) Contract for or accept revenues, compensation,
2 proceeds, and gifts or grants in any form from any
3 public agency or any other source, including any
4 revenues or proceeds arising from the operation or use
5 of the convention center;
- 6 (14) Develop, coordinate, and implement state policies and
7 directions for tourism and related activities taking
8 into account the economic, social, and physical
9 impacts of tourism on the State and its natural
10 resources infrastructure; provided that the authority
11 shall support the efforts of other state and county
12 departments or agencies to manage, improve, and
13 protect Hawaii's natural environment and areas
14 frequented by visitors;
- 15 (15) Have a permanent, strong focus on marketing and
16 promotion;
- 17 (16) Conduct market development-related research as
18 necessary;
- 19 (17) Coordinate all agencies and advise the private sector
20 in the development of tourism-related activities and
21 resources;



- 1 (18) Work to eliminate or reduce barriers to travel [~~in~~
2 ~~order~~] to provide a positive and competitive business
3 environment, including coordinating with the
4 department of transportation on issues affecting
5 airlines and air route development;
- 6 (19) Market and promote sports-related activities and
7 events;
- 8 (20) Coordinate the development of new products with the
9 counties and other persons in the public sector and
10 private sector, including the development of sports,
11 culture, health and wellness, education, technology,
12 agriculture, and nature tourism;
- 13 (21) Establish a public information and educational program
14 to inform the public of tourism and tourism-related
15 problems;
- 16 (22) Encourage the development of tourism educational,
17 training, and career counseling programs;
- 18 (23) Establish a program to monitor, investigate, and
19 respond to complaints about problems resulting
20 directly or indirectly from the tourism industry and
21 taking appropriate action as necessary;



- 1 (24) Develop and implement emergency measures to respond to
2 any adverse effects on the tourism industry, pursuant
3 to section 201B-9;
- 4 (25) Set and collect rents, fees, charges, or other
5 payments for the lease, use, occupancy, or disposition
6 of the convention center facility without regard to
7 chapter 91;
- 8 (26) Notwithstanding chapter 171, acquire, lease as lessee
9 or lessor, own, rent, hold, and dispose of the
10 convention center facility in the exercise of its
11 powers and the performance of its duties under this
12 chapter; and
- 13 (27) Acquire by purchase, lease, or otherwise, and develop,
14 construct, operate, own, manage, repair, reconstruct,
15 enlarge, or otherwise effectuate, either directly or
16 through developers, a convention center facility."

17 SECTION 6. Section 201B-6, Hawaii Revised Statutes, is
18 amended by amending subsection (b) to read as follows:

19 "(b) In accordance with subsection (a), the authority
20 shall [~~be responsible for developing~~] develop measures of
21 effectiveness to assess the overall benefits and effectiveness



1 of the marketing plan and include documentation of the directly
2 attributable benefits of the plan to the following:

- 3 (1) Hawaii's tourism industry;
- 4 (2) Employment in Hawaii;
- 5 (3) State taxes; and
- 6 (4) The State's lesser known and [~~underutilized~~] underused
7 destinations."

8 SECTION 7. Section 201B-7, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) The authority may enter into contracts and agreements
11 that include the following:

- 12 (1) Tourism promotion, marketing, and development;
- 13 (2) Market development-related research;
- 14 (3) Product development and diversification issues focused
15 on visitors;
- 16 (4) Promotion, development, and coordination of sports-
17 related activities and events;
- 18 (5) Promotion of Hawaii, through a coordinated statewide
19 effort, as a place to do business, including high
20 technology business, and as a business destination;
- 21 (6) Reduction of barriers to travel;



- 1 [+] (7) [+] Marketing, management, use, operation, or maintenance
2 of the convention center facility, including the
3 purchase or sale of goods or services, logo items,
4 concessions, sponsorships, and license agreements, or
5 any use of the convention center facility as a
6 commercial enterprise; provided that effective
7 January 1, 2003, and thereafter, the contract for
8 management of the convention center facility shall
9 include marketing for all uses of the facility; [and]
- 10 [+] (8) [+] Tourism research and statistics to:
- 11 (A) Measure and analyze tourism trends;
- 12 (B) Provide information and research to assist in the
13 development and implementation of state tourism
14 policy;
- 15 (C) Provide tourism information on:
- 16 (i) Visitor arrivals, visitor characteristics,
17 and expenditures;
- 18 (ii) The number of transient accommodation units
19 available, occupancy rates, and room rates;
- 20 (iii) Airline-related data including seat capacity
21 and number of flights;



1 (iv) The economic, social, and physical impacts
2 of tourism on the State; and

3 (v) The impact of ongoing marketing programs of
4 the authority on Hawaii's tourism industry,
5 employment in Hawaii, state taxes, and the
6 State's lesser known and underused
7 destinations;

8 and

9 (9) Any and all other activities necessary to carry out
10 the intent of this chapter;

11 provided that for any contract or agreement valued at \$25,000
12 and over, the authority shall provide notice to the speaker of
13 the house of representatives and the president of the senate on
14 the same day that such notification is given to the governor."

15 SECTION 8. Section 201B-9, Hawaii Revised Statutes, is
16 amended to read as follows:

17 " [†] §201B-9 [†] Tourism emergency. (a) If the board
18 determines that the occurrence of a world conflict, terrorist
19 threat, national or global economic crisis, natural disaster,
20 outbreak of disease, or other catastrophic event [~~7, regardless of~~
21 ~~when or where it occurs,~~] adversely affects Hawaii's tourism
22 industry by resulting in a substantial interruption in the



1 commerce of the State and adversely affecting the welfare of its
2 people, the board shall submit a request to the governor to
3 declare that a tourism emergency exists.

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

16 SECTION 9. Section 201B-11, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) Moneys in the tourism special fund shall be used by
19 the authority for the purposes of this chapter; provided that:

20 (1) Not more than five per cent of this amount shall be
21 used for administrative expenses, including \$15,000
22 for a protocol fund to be expended at the discretion



1 of the [~~executive director;~~] president and chief
2 executive officer; and

3 (2) At least \$1,000,000 shall be made available to support
4 efforts to manage, improve, and protect Hawaii's
5 natural environment and areas frequented by visitors."

6 SECTION 10. Section 201B-13, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[+]§201B-13[+] Assistance by state and county
9 agencies[-]; advisory group. (a) Any state or county agency
10 may render services upon request of the authority.

11 (b) The authority may establish an advisory group that may
12 meet monthly or as the authority deems necessary, which may
13 include the director of business, economic development, and
14 tourism, director of transportation, chairperson of the board of
15 land and natural resources, and executive director of the state
16 foundation on culture and the arts to advise the authority on
17 matters relating to their respective departments or agency in
18 the preparation and execution of suggested:

19 (1) Measures to respond to tourism emergencies pursuant to
20 section 201B-9;



- 1 (2) Programs for the management, improvement, and
2 protection of Hawaii's natural environment and other
3 areas frequented by visitors;
- 4 (3) Measures to address issues affecting airlines, air
5 routes, and barriers to travel to Hawaii; and
- 6 (4) Programs to perpetuate the cultures of Hawaii and
7 engage local communities to sustain and preserve the
8 native Hawaiian culture."

9 SECTION 11. For fiscal year 2010-2011, after the revenues
10 collected under chapter 237D, Hawaii Revised Statutes, are
11 distributed pursuant to section 237D-2(b), Hawaii Revised
12 Statutes, 12.5 per cent of the revenues derived under section
13 237D-2(b)-(2), Hawaii Revised Statutes, shall be deposited into
14 the tourism special fund established under section 201B-11,
15 Hawaii Revised Statutes, and any excess revenues shall be
16 deposited into the general fund.

17 SECTION 12. Act 58, Session Laws of Hawaii 2004, as
18 amended by section 50 of Act 22, Session Laws of Hawaii 2005, as
19 amended by section 1 of Act 306, Session Laws of Hawaii 2006, is
20 amended by amending section 14 to read as follows:

21 "SECTION 14. This Act shall take effect upon its approval;
22 provided that:



1 (1) The amendments made to sections 40-1, 40-4, and 40-6,
2 Hawaii Revised Statutes, by part I of this Act shall
3 not be repealed when those sections are reenacted on
4 June 30, 2006, by section 1 of Act 137, Session Laws
5 of Hawaii 2005;

6 (2) Sections 3, 4, 5, 6, and 7 of Part I shall be repealed
7 on June 30, 2010, and [~~sections 28-8-3,~~];

8 (A) Sections 201B-2[7] and 201B-11, Hawaii Revised
9 Statutes, shall be reenacted in the form in which
10 they read on May 5, 2004 [~~and sections~~]; except
11 that the amendments made by Act , Session Laws
12 of Hawaii 2009, to section 201B-2, Hawaii Revised
13 Statutes, and subsection (c) of section 201B-11,
14 Hawaii Revised Statutes, shall not be repealed;

15 and

16 (B) Sections 40-1, 40-4, and 40-6, Hawaii Revised
17 Statutes, shall be reenacted in the form in which
18 they read on June 30, 1986; and

19 (3) Section 9 shall take effect on July 1, 2004."

20 SECTION 13. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 14. This Act shall take effect on July 1, 2009;
2 provided that section 11 shall take effect upon the enactment of
3 S.B. No. 1111, S.D. 1, H.D. 1, C.D. 1, Regular Session of 2009.

