Report to the Twenty-Fifth Legislature
2009 Regular Session

Pursuant to

Act 213, Part VII, Section 196, Session Laws of Hawai'i 2007

On

How the Department of Commerce and Consumer Affairs' Expenditures will be Aligned with its Special Fund Revenue Collections

Department of Commerce and Consumer Affairs
State of Hawai'i

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How the Department of Commerce and Consumer Affairs' Expenditures will be Aligned with its Special Fund Revenue Collections

This report is required by part VII, section 196 of Act 213 (the "Act"), Session Laws of Hawai'i ("SLH") 2007 concerning the Department of Commerce and Consumer Affairs' ("DCCA" or "Department") compliance resolution fund ("CRF").

The Act, known as the General Appropriations Act of 2007, reads in pertinent part as follows:

> "SECTION 196. Provided that the department of commerce and consumer affairs shall prepare a detailed report on *how the department's expenditures will be aligned with its special fund revenue collections*; provided further that this report shall include a discussion of plans to lower fees to appropriate levels; and provided further that the department shall submit the report to the legislature no later than twenty days prior to the convening of the 2008 and 2009 regular sessions." (Emphasis added)

Because the Department is specially funded, it has no access to general funds. Revenue is program specific, and arrives throughout the year. As a result, each program has to maintain sufficient cash reserves in order to (1) ensure operations until revenues are received, and (2) ensure against sudden downturns in revenues. The Department became fully self-funded in 1999. In the initial years, and in part due to the uncertainty related to managing a self-funded program, programs were encouraged to try to accrue reserves that amounted to two years of projected expenses (program ceiling plus internal overhead). In 2003, the Department concluded that it was unnecessary to maintain two years of reserves, and the goal was reduced to nine months.

The Department has made substantial strides toward reducing and leveling its overall fund balance, reducing the cash reserve from 13.3 months at the close of FY 04 to 10.5 months at the end of FY 08. The Department anticipates closing out FY 09 with a reserve of 10.2 months (Attachment A).

DCCA subscribes to the principle that its customers should only pay the Department for services reasonably related to the regulation, registration, license or related service that the Department provides. Thus, the Department has worked hard to ensure that its fees are set at reasonable levels.

Toward that end, and with the Governor's and the Legislature's encouragement and assistance, the Department has been able to reduce fees and assessments by over $44 million since January 2003 and expects to add to that amount approximately $7 million this fiscal year (Attachment B). As a result, we have been able to better align our revenues and expenses, while bringing the Department's operating reserves closer to our cash reserve goal of nine months (of budget ceiling).

Since January 2003, the Department has implemented revenue reductions of over $44 million (Attachment B). These have included:

- The Business Registration Division ("BREG") reduced the filing fee for on-line filings and payment by credit card, and for subscribers to the Hawai'i internet portal;
- BREG reduced the fees charged for business document registration, exclusive of new business registration and annual report and statement fees;
- BREG reduced the fee charged for Certificates of Good Standing from $25 to $5;
- BREG reduced the fee for initial and annual filings;
- BREG initiated a reduction for (i) securities industries Reg. D filing fees, (ii) filing fees charged for franchise fee applications, amendments and renewals, and (iii) filing fees charged for application and renewal fees for securities dealers and their salespeople,

investment advisors and their representatives, and the initial notice filing and renewal fees for investment company securities;

- The Insurance Division ("INS") reduced direct assessments on insurance companies doing business in Hawai'i from the average FY 00 – FY 03 assessment;

- INS reduced producer licensing fees by $25;

- The Division of Financial Institutions ("DFI") waived examination fees and related expenses for financial institutions and escrow depositories;

- Regulated Industries Complaints Office ("RICO") initiated a reduction of compliance resolution fees associated with professional and vocational license online renewals, and a reduction of compliance resolution fees;

- Cable Television Division ("CATV") directed that the cable franchisee temporarily cease collecting all or a portion of the Department's share of the annual fee from subscribers; and

- Professional Vocational Licensing Division ("PVL") initiated a "customer appreciation credit" for biennial professional and vocational licensing online renewals.

For FY 09, the Department projects revenue reductions of approximately $7 million (Attachment B). These include:

- BREG will maintain its filing fee reduction for on-line filings and payment by credit card, and for subscribers to the Hawai'i internet portal, with projected foregone revenue of $180,000;

- BREG continues its reduction in fees for business document registration exclusive of new business registration and annual report and statement fees, with projected foregone revenue of approximately $350,000;

- BREG's reduced fee for Certificates of Good Standing of $5 will remain in effect, with projected foregone revenue of $150,000;

- BREG will continue its reduced fee for initial and annual filings, foregoing projected combined revenue of $1,315,000;

- BREG continues a fee cut for (i) securities industries Reg. D filing fees, (ii) filing fees charged for franchise fee applications, amendments and renewals, and (iii) filing fees charged for application and renewal fees for securities dealers and their salespeople, investment advisors and their representatives, and the initial notice filing and renewal fees for investment company securities, with projected foregone combined annual revenue of $1,790,500;

- BREG will implement a fee reduction for registration of trademarks, trade names, and service marks, foregoing projected revenue of $95,000;

- INS will reduce direct assessments on insurance companies doing business in Hawai'i from the average FY 00 – FY 03 assessment by $1,752,658;

- INS's $25 reduction in producer licensing fees will stay in effect, with projected foregone revenue of $170,000;

- RICO will forego revenue of $224,508 through its reduction of compliance resolution fees associated with professional and vocational license online renewals;

- CATV will forego $400,000 in revenues from the Department's portion of the annual fee from subscribers;

- PVL will continue to offer its "customer appreciation credit" projecting foregone revenue of $528,672.

The fee/assessment cuts outlined here will continue to save Hawai'i businesses and residents millions of dollars, thus strengthening Hawai'i's business and employment climate.

DCCA has demonstrated an ongoing commitment to reducing its overall fund balances, and keeping its revenues aligned with its expenses. The plan has already borne significant fruit in the form of significant assessment reductions, exam fee waivers and fee cuts.

The Department will continue to strive to improve its services to customers by reducing fees where possible, making use of innovations in technology, keeping up to date with national management and services trends, and ensuring that its personnel receive the training necessary to fulfill its core mission of protecting consumers and providing a well-regulated business climate.