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ADMINISTRATIVE SURVEY OF THE TERRITORY OF HAWAII

Preliminary Report Number 7

BUSINESS AND COMMERCE DEVELOPMENT

August 23, 1950  
LEGISLATIVE REFERENCE BUREAU  
University of Hawaii

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ADMINISTRATIVE SURVEY OF THE TERRITORY OF HAWAII

Preliminary Report Number 7

Prepared for the Sub-Committee on Governmental Efficiency  
of the Holdover Committee of 1949

BUSINESS AND COMMERCE DEVELOPMENT

LEGISLATIVE REFERENCE BUREAU  
TERRITORY OF HAWAII  
UNIVERSITY OF HAWAII  
HONOLULU

STATE OF HAWAII

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## I. PRESENT ORGANIZATION

The supervision and regulation of businesses and professions in the Territory is scattered among two major territorial agencies--the treasurer's office and the public utilities commission--and 18 minor boards and commissions commonly referred to as regulatory boards.<sup>1</sup>

The treasurer is responsible for the supervision, inspection or regulation of insurance companies, banks, the sale of securities and the administration of laws relating to corporations. He is also charged with the general responsibility for fire safety, necessitating the inspection and regulation of many places of business.<sup>2</sup>

The public utilities commission is charged with "general supervision . . . over all public utilities doing business in the Territory. . . ." <sup>3</sup> Its important functions include the determination of a rate base and rate of return for each utility and the fixing of charges which will be fair to both the public and to the particular utility. It investigates the operation of the utilities under its jurisdiction, particularly in such fields as the issuance of securities.

Each of the 18 regulatory boards was set up specifically to regulate, register or license a particular professional, technical or business group. Most utilize small or part-time clerical staffs, with only two of the group--

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<sup>1</sup>Board of examiners of abstract makers; board of accountancy; board of barbers; boxing commission; board of chiropractic examiners; board of dental examiners; board of registration for professional engineers, architects and surveyors; board of hairdressers, cosmeticians and cosmetologists; board of massage; board of medical examiners; board of examiners of natureopathy; board of registration of nurses; board of examiners in optometry; board of osteopathic examiners; board of pharmacy; board of photography; real estate commission; and board of veterinary examiners.

<sup>2</sup>Discussion of these functions may be found in Report No. 6 of this series.

<sup>3</sup>Section 4705, Revised Laws of Hawaii 1945.

the boxing and the real estate commissions--maintaining a staff of several full-time employes. A majority of these boards operate under special funds, into which are paid all fees or other revenues and out of which the agency's expenses are paid. In about one-third of the cases, where no special fund has been established, the board does not deposit its receipts with the territorial treasurer, and no information concerning its financial operations is contained in the territorial budget. Table I shows estimated expenditures of these agencies for the current biennium.

Table I.

ESTIMATED EXPENDITURES OF TERRITORIAL REGULATORY BOARDS  
1949-51

Abstract makers . . . . .	\$ ---- *
Accountants . . . . .	---- *
Barbers . . . . .	5,326
Boxing . . . . .	62,637
Chiropractors . . . . .	---- *
Dental . . . . .	3,161
Engineers, etc. . . . .	6,243
Hairdressers, etc. . . . .	11,393
Massage . . . . .	3,000
Medical . . . . .	3,115
Natureopaths . . . . .	---- *
Nurses . . . . .	26,496
Optometrists . . . . .	128
Osteopaths . . . . .	---- *
Pharmacists . . . . .	650
Photographers . . . . .	40
Real estate . . . . .	22,200
Veterinarians . . . . .	---- *
Total . . . . .	144,389

\* Financial information concerning this board is not compiled.

Source: Territory of Hawaii, Proposed Budget for the Biennium 1949-51.

II. ANALYSIS

With the present allocation of regulatory functions among so many agencies, most of which are virtually independent of executive control, there is no

integration of staff or equipment needs and no coordination of related activities. For example, immediate improvement could be effected in the operation of the regulatory boards by coordinating staff needs so that a few full-time, competent persons could handle the administrative work of all the agencies. During the present biennium, the boards will spend more than \$100,000, or approximately 70% of their total expenditures, on personal services. This amount can be greatly reduced by the pooling of staff and clerical needs.

It would also be most advantageous to the Territory and to the public to have a centrally located office for all such agencies where all records could be filed and all business carried out.

More important, there is no one public body concerned with the broader aspects of the economic development of Hawaii. Words used in a recent administrative report relating to governmental organization in the State of Connecticut could be used equally well to describe the situation in Hawaii.

Nowhere is there now an agency broadly equipped to represent the industrial and commercial life of the state, to marshal the factual data for intelligent business action, to view in perspective the best interests and needs of the State's economy as a whole in the conduct of either promotional, regulatory or planning activities.<sup>4</sup>

In order to correct present organizational weaknesses and to establish central authority and responsibility for encouragement and regulation of business and commercial activities, the creation of a department of commerce, under the supervision of a commissioner appointed by the governor, is recommended.

Such a commerce department would have the following duties and functions:

1. All functions formerly exercised by the insurance commissioner, except the administration of insurance taxes;

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<sup>4</sup>The Report, Connecticut Commission on State Government Organization, 1950, p. 28.

2. All functions formerly exercised by the bank examiner, except the audit of the accounts of local governmental units;

3. All functions formerly exercised by the fire marshall;

4. Functions formerly exercised by the treasurer relating to the administration of corporation and partnership laws.

5. "Housekeeping" functions of the public utility commission; and

6. "Housekeeping" functions for all of the regulatory boards and commissions.<sup>5</sup>

The regulatory boards would be associated with the department principally for housekeeping purposes. However, since various substantive problems relating to the boards have arisen recently and seem worthy of further investigation, it is recommended that the commissioner be specifically charged with responsibility for investigating the programs and procedures of all such agencies, with a view toward standardizing such procedures and bringing them in line with modern and businesslike methods. Such a program should strengthen the association of the boards with the department, also bring to light the existence of any irregular or outmoded examining, registration or personnel practices, so that such could be corrected. The commissioner would be required to report to the governor and to the next session of the legislature concerning his findings and any recommended legislative changes.

The department would also be the record-keeping body for all such agencies, and all licenses and registrations would be issued by the department after certification by the individual boards.

In brief, it is believed that immediate improvement in effectiveness and economy could be achieved by such integration, but, more important, the foundation

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<sup>5</sup>The recommendation here is for the creation of a new department. As noted, most of the non-fiscal functions of the treasurer are transferred to the new department. However, it would be possible, should it be considered inexpedient to create a new department at this time, to place all such functions under a Department of Treasury and Commerce, to be headed by the treasurer.

would be laid for study of the substantive program of the many agencies, with a view toward effecting better performance of regulatory functions.

The public utilities commission would be associated with the department for housekeeping functions only, for the purpose of achieving coordination and economy in operations. This would relieve the commission itself of routine internal management problems, combining staff and material needs with those of other agencies of similar function. The commission itself would retain all of its substantive powers and duties.

Closely related to the organization of such agencies is the manner in which they are financed. As already pointed out, most of the regulatory boards are "self-supporting"--that is, their expenses are paid by special assessments on the occupational group concerned. In the case of many of the regulatory boards, such funds are not paid to or held by the territorial treasurer. The public utilities commission is also financed principally by special fees levied on the various utilities, such fees being paid into a special fund under the supervision of the territorial treasurer, but available for expenditure without requiring an appropriation by the legislature.

Although a later report in this series will be specifically concerned with a study of the problem of special funds and earmarked revenues, it should be pointed out at this time that no coordination of activities in this field would be workable, nor could any real economy be effected, without the abolition of these special funds. If the 18 regulatory boards are to be coordinated in such a way that one central office and staff can handle their routine administrative duties, then their finances must also be coordinated so that joint financing is possible. It would be difficult, if not impossible, to devise a system by which clerical and administrative expenses could be divided and charged to 18 different funds. The same is true of the public utilities commis-

sion. If integration of any of the agencies concerned is to be effected, it is essential that all special funds of such agencies be abolished and revenues paid into the general fund for appropriation by the legislature as with other agencies.

A proposed organization chart for such a commerce department is shown in Figure I and proposed legislation incorporating these recommendations is set forth in Appendix A.

In summary, the creation of such a department would:

1. Establish in a single agency broad responsibility for the planning, supervision and coordination of the Territory's business and commercial functions;

2. Achieve economy through coordination of the administration of commercial functions, particularly those concerned with regulatory functions;

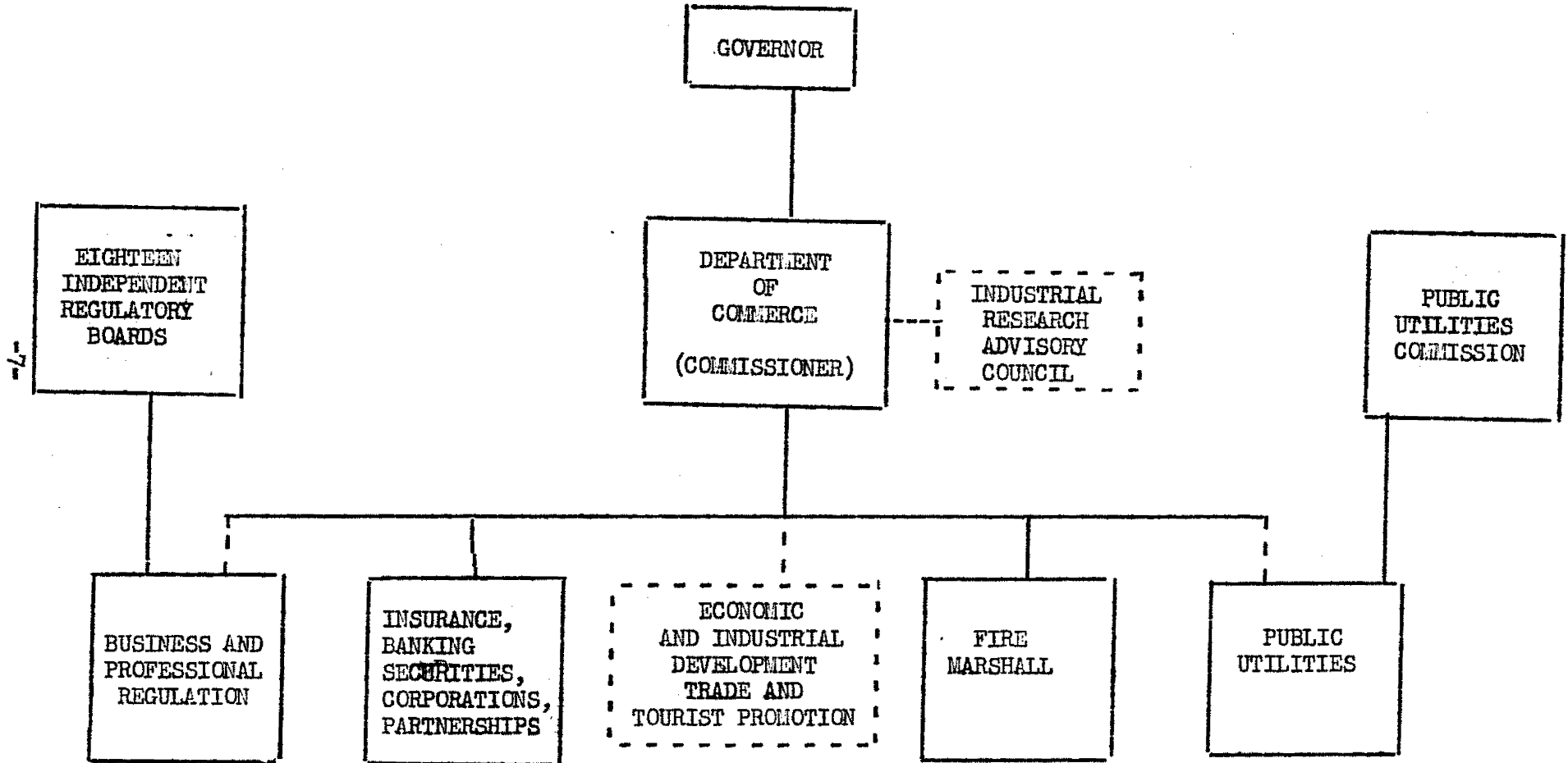
3. Provide headquarters and record keeping for commercial functions; and

4. Remove from the treasurer's office functions unrelated to its main purposes.

Although at present such a department would be principally regulatory in function, it should be established with the purpose in mind of developing a positive program for expanding the Territory's economic base. It is suggested, for example, that the industrial research advisory council be closely associated with the new department, perhaps by providing that the commerce commissioner be ex-officio a member of the board. Any further program of industrial or commercial promotion or development should also be integrated into the department.

FIGURE I.

ORGANIZATION OF PROPOSED COMMERCE DEPARTMENT



APPENDIX A.

AN ACT

RELATING TO THE REORGANIZATION OF CERTAIN EXECUTIVE DEPARTMENTS OF THE GOVERNMENT; ESTABLISHING A DEPARTMENT OF COMMERCE, DEFINING ITS POWERS AND DUTIES AND TRANSFERRING CERTAIN FUNCTIONS.

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

SECTION 1. Definitions. When used in this Act, unless the context clearly indicates otherwise, "department" or "commerce department" shall refer to the department of commerce established herein. "Commissioner" or "commerce commissioner" shall refer to the commissioner of commerce. "Regulatory board" shall refer to all of the following boards and commissions: board of examiners of abstract makers; board of accountancy; board of barbers; boxing commission; board of chiropractic examiners; board of dental examiners; board of registration for professional engineers, architects and surveyors; board of hairdressers, cosmeticians and cosmetologists; board of massage; board of medical examiners; board of examiners in natureopathy; board of registration of nurses; board of examiners in optometry; board of osteopathic examiners; board of pharmacy; board of photography; real estate commission; and board of veterinary examiners.

SECTION 2. Department of commerce; commissioner. There is hereby established a department of commerce. The department shall be under the control and supervision of a commissioner of commerce, who shall be appointed by the governor and may be removed by the governor for cause. He shall receive such salary as shall be established by law.

SECTION 3. Appointments by commissioner. The commissioner may appoint an assistant or deputy commissioner, and shall appoint such professional, technical and clerical personnel as shall be necessary to carry out the provisions of this chapter. All such appointments shall be according to the provisions of chapters 2 and 3, Revised Laws of Hawaii 1945.

SECTION 4. Powers and duties of commissioner. The commissioner is hereby authorized and it shall be his duty to perform:

(1) All functions, powers and duties heretofore vested in, and exercised or performed by, the insurance commissioner, except the administration of insurance taxes;

(2) All functions, powers and duties heretofore vested in, and exercised or performed by, the bank examiner, except the audit of accounts and books of local governmental units;

(3) All functions, powers and duties heretofore vested in, and exercised or performed by, the commissioner of securities;

(4) All functions, powers and duties relating to the administration of laws concerning corporations and copartnerships heretofore vested in, and exercised or performed by, the treasurer;

(5) All functions, powers and duties relating to the administration of laws concerning prints, labels or trade-marks heretofore vested in, and exercised or performed by, the treasurer;

(6) All functions, powers and duties relating to the registration of newspapers heretofore vested in, and exercised or performed by, the treasurer;

(7) All functions, powers and duties heretofore vested in, and exercised or performed by, the fire marshal;

(8) Such functions relating to the supervision of personnel of the public utilities commission as are set forth in Section 5 (b) herein.

(9) Such functions relating to all regulatory boards as are set forth herein.

SECTION 5. Transfer of certain functions. (a) All powers and duties heretofore vested in the treasurer relating to the functions of the insurance commissioner, bank examiner, commissioner of securities and the fire marshal, or to the administration of laws relating to corporations and copartnerships, prints, labels or trade-marks and the registration of newspapers are hereby transferred to the commissioner, but no power or duties relating to the administration of insurance taxes heretofore vested in the insurance commissioner, or powers or duties relating to the audit of county books heretofore vested in the bank examiner, shall be transferred to or performed by the commerce commissioner.

(b) The public utilities commission and each of the respective regulatory boards enumerated in this Act shall continue to have all of the powers and shall exercise all of the functions and duties vested in or imposed upon it by law, except that all functions relating to the appointment, employment and supervision of all employees, including without limiting the generality of the foregoing, attorneys, clerks, stenographers, agents, engineers, accountants, investigators, secretaries and executive secretaries, heretofore vested in such regulatory boards and in the public utilities commission are hereby transferred to the commissioner.

(c) Functions relating to the issuance of licenses upon recommendation, report or certification of the regulatory boards, heretofore vested in the board of health, are hereby transferred to the commissioner.

SECTION 6. Records and reports. All records and reports of the public utilities commission and of all regulatory boards shall be filed with and be under the control of the commissioner. The commissioner shall report annually to the governor concerning the activities of the department, including the public utilities commission and all such regulatory boards.

SECTION 7. Investigations by commissioner. The commissioner shall investigate and study the programs, practices and procedures of the respective regulatory boards, such investigation and study to be particularly concerned with personnel policies and practices of the boards, methods of registration or licensing and administrative procedure. He shall report to the governor and the legislature no later than \_\_\_\_\_ concerning such investigation and study, and make such recommendations concerning such programs, practices and procedures as he sees fit.

SECTION 8. Revenues of certain agencies. All revenues or receipts from whatsoever source accruing to the department, the public utilities commission or any regulatory board shall be paid into the territorial treasury and credited to the general fund of the Territory.

SECTION 9. Transfer of property. All property including, but not limited to, equipment, supplies and records, of any territorial officer or agency the functions, powers and duties or a part of the functions, powers and duties of which have been assigned to the commissioner are hereby transferred thereto.

SECTION 10. Transfer of personnel.

SECTION 11. Conflicting acts amended. All laws or parts of laws inconsistent herewith are hereby amended to conform to the provisions of this Act.

SECTION 12. Short title. This Act may be cited as the "Commerce Department Act of 1951".

SECTION 13. This Act shall take effect July 1, 1951.