
A BILL FOR AN ACT

RELATING TO THE UNIVERSITY OF HAWAII TUITION AND FEES SPECIAL FUND.

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

1 SECTION 1. Prior to the establishment of the university of
2 Hawaii tuition and fees special fund by Act 161, Session Laws of
3 Hawaii 1995 (Act 161), the State fully funded the core
4 operations of the university through general fund
5 appropriations; all regular university of Hawaii tuition and
6 fees revenue was deposited in the state general fund for use by
7 the State.

8 Recognizing that the State would not be able to solely fund
9 the university to meet the full higher education needs of the
10 State, Act 161 created the tuition and fees special fund, into
11 which tuition and fees could be deposited and expended by the
12 university. When Act 161 was enacted, the legislature made a
13 commitment to not reduce general fund appropriations to the
14 university on the basis of the university's retention of its
15 tuition and fees revenue.



1 Nonetheless, soon after the creation of the tuition and
2 fees special fund, the State encountered significant financial
3 challenges and the commitment was not honored; state general
4 fund appropriations to the university were reduced below prior
5 levels, contrary to statute.

6 Recognizing the need to take greater responsibility for the
7 financing of public higher education in Hawaii, the university
8 began to cover many expenses through tuition and fees revenue
9 instead of through general funds. The vast majority of
10 university expenses are for personnel, so as a greater share of
11 expenses became covered by tuition and fees revenue instead of
12 general funds, it became necessary to fund both operating
13 expenses, such as utilities, and the costs for appropriated
14 general fund permanent positions through tuition and fees
15 revenue.

16 While the university was able to support the direct salary
17 costs for a number of its employees in appropriated general fund
18 permanent positions with tuition and fees revenue, it was a
19 challenge to also fund the fringe benefits for these employees
20 from tuition and fees revenue. This challenge was exacerbated
21 by the fact that fringe benefit costs are fully established and



1 managed by the State without any ability of the university to
2 control these costs.

3 Recognizing the need to formalize a fair approach to cost-
4 sharing the expenses for public higher education in Hawaii
5 between the taxpayers and students, an agreement was reached in
6 2005 between the department of budget and finance and the
7 university whereby a position that is authorized by the
8 legislature as a general funded position could have its salary
9 paid in part or in whole by tuition and fees revenue while the
10 fringe benefits expense associated with that position could
11 continue to be paid by the general fund as managed by the State.
12 Only for positions that were general fund authorized by the
13 legislature but for which there were inadequate general funds
14 appropriated, and for which the university would utilize the
15 tuition and fees special funds to pay salaries, could the fringe
16 benefits expenses continue to be paid by the state general fund.

17 Concurrently, legislative commitment to cost-sharing the
18 expense of public higher education in Hawaii between the State
19 and university, as established in section 304A-2101(a), Hawaii
20 Revised Statutes, requires the annual appropriation of general
21 funds to the university in an amount that is "not less than



1 three times and not greater than five times" the amount of
2 regular tuition and fees revenues estimated for that fiscal
3 year. Furthermore, section 304A-2101(c), Hawaii Revised
4 Statutes, reinforces this minimum funding requirement by
5 prohibiting the state administration from using revenue received
6 by the university through the university of Hawaii tuition and
7 fees special fund to be used as an offset or "justification for
8 reducing any budget request or allotment to the university
9 unless the university requests such a reduction".

10 A conservative analysis of general fund appropriations and
11 regular tuition and fees revenue makes it clear that this
12 statutory provision has been violated since at least 2010. It
13 is estimated that since 2014, the total minimum shortfall in
14 appropriations to the university is in excess of \$2,700,000,000
15 over the last ten years.

16 Executive Order No. 20-06 formalized the cost-sharing
17 agreement that had been reached in 2005. The continuation of
18 this cost-sharing program helped prevent increased tuition rates
19 and the reduction of university personnel occupying
20 legislatively appropriated general fund positions for which
21 adequate general funds were no longer being appropriated.



1 Executive Order No. 20-06 formally authorized the university to
2 establish non-imposed fringe benefits as a means to enable the
3 use of tuition and fees special fund resources by the State to
4 fund the direct payroll of appropriated general fund positions
5 without requiring the tuition and fees special fund to also
6 cover the fringe benefit costs for those positions.

7 This use of the non-imposed fringe benefits has
8 successfully enabled a form of cost-sharing for overall
9 personnel expenses between general funds and tuition and fees
10 revenue generated by the university of Hawaii for appropriated
11 general fund positions for which general funds have not
12 adequately covered the salaries for over fifteen years.

13 The purpose of this Act is to:

14 (1) Statutorily recognize the long-standing cost-sharing
15 agreement and practice as beneficial to both the
16 university of Hawaii and the State; and

17 (2) Remove the statutory minimum funding requirement that
18 has been violated for at least ten years, during which
19 the annual general fund appropriations to the
20 university have been well shy of at least three times



1 the amount of regular tuition and fees revenues for
2 each fiscal year.

3 SECTION 2. Section 304A-2101, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~{}~~§304A-2101~~{}~~ **General fund budget appropriations;**
6 **formulation.** [~~(a)~~—The general fund budget appropriations for
7 the university shall be an amount not less than three times and
8 not greater than five times the amount of regular tuition and
9 related fee revenues estimated for that fiscal year.

10 ~~(b)~~ (a) Any general fund budget appropriation for the
11 university for operating purposes for any fiscal year shall
12 include the consideration of:

- 13 (1) The fiscal condition of the State;
14 (2) Enrollment;
15 (3) Access to educational opportunity;
16 (4) The mix of resident and nonresident students; and
17 (5) Community service and noninstruction programs.

18 ~~(e)~~ (b) No revenue received by the university pursuant
19 to the University of Hawaii tuition and fees special fund
20 established under section ~~{}~~304A-2153~~{}~~ may be used by the
21 governor or the director of finance as a justification for



1 reducing any budget request or allotment to the university
2 unless the university requests such a reduction."

3 SECTION 3. Section 304A-2153, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§304A-2153 University of Hawaii tuition and fees special**

6 **fund.** (a) There is established the [~~University~~] university of

7 Hawaii tuition and fees special fund into which shall be

8 deposited all revenue collected by the university for regular,

9 summer, and continuing education credit tuition, tuition-related

10 course and fee charges, and any other charges to students,

11 except as provided by law. Moneys deposited into the fund shall

12 be expended to maintain or improve the university's programs and

13 operations and shall not be:

14 (1) Used as a justification for reducing any budget

15 request or allotment to the university unless the

16 university requests such a reduction;

17 (2) Transferred unless otherwise authorized by the

18 legislature; and

19 (3) Restricted by the governor or the director of finance

20 without the prior approval of the legislature.



1 Any rule, policy, or action of any agency or individual in
2 contravention of this subsection shall be void as against public
3 policy.

4 (b) Any law to the contrary notwithstanding, the board of
5 regents may authorize expenditures of up to \$3,000,000 annually,
6 excluding in-kind services, from this fund for the purposes of
7 promoting alumni relations and generating private donations for
8 deposit into the University of Hawaii Foundation for the
9 purposes of the university. Any expenditure authorized pursuant
10 to this subsection shall be for a public purpose and shall not
11 be subject to chapters 42F, 103, 103D, and 103F. The university
12 shall submit a comprehensive report to the legislature detailing
13 the use of any funds authorized by the board under this
14 subsection no later than twenty days prior to the convening of
15 each regular session.

16 The report shall:

- 17 (1) Identify each department of the University of Hawaii
18 Foundation supported by moneys from the fund;
- 19 (2) Describe the purposes and activities of each
20 department identified in paragraph (1) and how it



1 participates in fundraising activities and benefits
2 the university;

3 (3) Provide the total expenditures of each department
4 identified in paragraph (1) by primary expense
5 categories;

6 (4) Identify all moneys from the fund transferred to any
7 fund of the university and provide a justification of
8 how these moneys are used to benefit the university;

9 (5) Provide a financial summary of the operating
10 activities of the University of Hawaii Foundation,
11 including revenues and expenditures by major reporting
12 categories; and

13 (6) Identify amounts and purposes of all expenditures from
14 the University of Hawaii support fund.

15 (c) Any law to the contrary notwithstanding, the
16 university may transfer funds from the [~~University~~] university
17 of Hawaii tuition and fees special fund into the scholarship and
18 assistance special fund established pursuant to section 304A-
19 2159.

20 (d) In estimating its quarterly budget requirements, each
21 campus of the [~~University~~] university of Hawaii shall prepare a



1 plan for the fiscal year for the operation of each of the
2 programs that it is responsible for administering. The
3 operations plan shall be:

4 (1) In such form and content as the vice president for
5 budget and finance and chief financial officer of the
6 [~~University~~] university of Hawaii may prescribe; and

7 (2) Submitted, together with the estimated quarterly
8 budget requirements, to the vice president for budget
9 and finance and chief financial officer on such date
10 as the vice president for budget and finance and chief
11 financial officer may prescribe.

12 (e) The president and vice president for budget and
13 finance and chief financial officer of the [~~University~~]
14 university of Hawaii:

15 (1) Shall review the operations plan for each campus to
16 determine if:

17 (A) It is consistent with the policy decisions of the
18 board of regents and appropriations by the
19 legislature;

20 (B) It reflects proper planning and efficient
21 management methods; and



1 (C) Appropriations have been made for the planned
2 purpose and will not be exhausted before the end
3 of the fiscal year;

4 (2) Shall approve the operations plan for each campus if
5 they determine that the operations plan meets the
6 requirements of paragraph (1); and

7 (3) May modify or withhold the planned expenditures of any
8 campus at any time during the appropriations period.

9 (f) At the end of each fiscal year, the moneys in the
10 ~~[University]~~ university of Hawaii tuition and fees special fund
11 for each campus shall lapse to the credit of program
12 identification number UOH900 (~~[University]~~ university of Hawaii,
13 system wide support).

14 (g) The university of Hawaii tuition and fees special fund
15 may be used to pay for salaries in part or in full for positions
16 that have been authorized by the legislature whose means of
17 funding are the general revenues of the State of Hawaii. In
18 paying the salaries for such general fund authorized positions
19 using funds in the university of Hawaii tuition and fees special
20 fund, the university of Hawaii shall be exempted from the
21 requirements of sections 87-39(a) and 88-125(a) as they pertain



1 to the liability for fringe benefits reimbursements for
2 contributions made by the State pursuant to sections 87A-32,
3 87A-33, 87A-34, 87A-35, 87A-36, and 87A-37.

4 (h) The department of budget and finance may establish
5 guidelines and parameters for managing the implementation of
6 subsection (g)."

7 SECTION 4. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

10

INTRODUCED BY:



JAN 17 2024



H.B. NO. 1677

Report Title:

University of Hawaii; Tuition and Fees Special Fund

Description:

Specifies conditions for exemptions for the University of Hawaii from sections 87A-39(a) and 88-125(a), HRS. Amends the formulation of general fund budget appropriation in proportion to the amount of regular tuition and related fee revenues estimated for the respective fiscal year.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

