S.B. NO. 2237

JAN 25 2006

A BILL FOR AN ACT

RELATING TO STATE RISK MANAGEMENT.

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

SECTION 1. Section 41D-4, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Money received from the settlement of claims or losses of the State as delineated in subsection (a) <u>shall be deemed to be trust moneys and</u> may be deposited into the state risk management revolving fund [.] <u>or into a trust account with and under the control the affected agency at the discretion of the comptroller. These moneys and any interest earned thereon shall be used for the purpose identified in any such settlement.</u>"

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2006.

INTRODUCED BY: ______________________

BY REQUEST

SB. NO. 2237

JUSTIFICATION SHEET

DEPARTMENT: Accounting and General Services

TITLE: A BILL FOR AN ACT RELATING TO STATE RISK MANAGEMENT.

PURPOSE: The purpose of this bill is to amend the State Risk Management and Insurance Administration law to authorize the Comptroller to exercise his discretion to deposit money received from the settlement of claims or losses of the State into the affected agency's account instead to the State Risk Management Revolving Fund (the Fund).

MEANS: Amend section 41D-4(g), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Chapter 41D, HRS, established the State Risk Management and Insurance Administration (the Program) to acquire insurance policies covering property, liability, wrongful acts of employees, to process and pay the State's portion of losses to property, State liability claims, automobile claims, and losses arising from dishonesty, and wrongful acts of any officer or employee of the State, etc.

Amending the law to authorize the Comptroller to exercise his discretion to allow money received from the settlement of claims or losses of the State to be deposited directly into the affected agency's account instead of the Fund will provide the means to have the affected agency receive funding in a timelier manner.

Currently, whenever there is a State facility that sustains more than $1 million in damage, the appropriation ceiling will likely be exceeded and an emergency appropriation request to the Legislature required to process the insurance reimbursements to the other State agencies and/or vendors performing the repair work.

This procedural requirement causes an undue hardship on the public because of the delays in repairing the State facilities. The projection of expenditures from the Fund for fiscal year 2005-2006 will be the fourth time in the past 10 fiscal years, and the third time in the last 3 fiscal years, that expenditures have exceeded the ceiling and will result in an emergency appropriation request being made to the Legislature. In fiscal year 2005-2006, the cost to reconstruct a school building destroyed by fire in May 2005 at Kalaheo School on Kauai, estimated at $10 million, will require disbursements that will exceed the ceiling by approximately $5 million. In substance, the Fund is not able to expend insurance proceeds received without the appropriation ceiling being raised.

Additionally, it has been the past practice of the Program to deposit money received from the settlement of claims and losses of the State into the Fund and reimburse the agencies only after they have expended their funds for repair work. This procedure has caused major hardships for affected agencies that are not able to fund the repair work upfront. For example, the University of Hawaii at Manoa (UH) which sustained major damages from the October 30, 2004 flood was not able to be reimbursed until they had paid the contractors, although the Fund had already received the $25 million claim from the property insurance company. Other repairs at the UH were postponed to cover this shortage. Kalaheo Elementary School is another example. Although the Fund will receive settlement moneys, these funds will not be disbursed to the Department of Education until they have expended their funds.

This bill would authorize the Comptroller to exercise his discretion to authorize affected agencies to receive settlement funds of claims and losses directly from the insurance carriers so that repairs of State facilities damaged by fires, natural disasters, etc. can be completed in a timely manner. This change is consistent with section 41D-2(a)(11) that makes it the Comptroller's responsibility to develop sound risk management practices and policies for the State.

Impact on the public: The public affected by damages to State facilities and who have insurance claims against the Fund are impacted by this bill. For the 2006 regular session, the Program will be making an emergency appropriation request of $5 million to reimburse the DOE for the repair of Kalaheo Elementary School that lost an entire building from the May 7, 2005 fire. An emergency appropriation ceiling increase is required by the Legislature because the current ceiling of $11.95 million is insufficient to expend the insurance reimbursements. The repairs and construction of damaged buildings and contents are delayed whenever this situation arises. Alternatively in this instance, funds appropriated by the Legislature for school repairs will be diverted to rebuild the lost building when in fact funds are available (insurance proceeds) but cannot be expended because of an expenditure ceiling and the Program requirement that the agency would need to expend their funds before they can be reimbursed. Thus classroom repairs are delayed.

Impact on department and other agencies: Money received from the settlement of claims and losses of the State are deemed to be trust moneys and may be paid directly into the affected agency's trust account instead of the Fund. The affected agency would be able to expend these funds resulting in repairs to State facilities in a timelier manner.

GENERAL FUND: None.

SB. NO. 2237

OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	AGS-203/Risk Management.
OTHER AFFECTED AGENCIES:	Any agency receiving monies from the settlement of claims and losses of the State.
EFFECTIVE DATE:	July 1, 2006.