



GOV. MSG. NO. 692

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE  
GOVERNOR

July 7, 2010

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 2548 SD2 HD1 CD1

On July 6, 2010, Senate Bill No. 2548, entitled "A Bill for an Act Relating to Information Technology" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to establish the position of Chief Information Officer within the Office of the Governor, create an Information Technology Steering Committee within the Governor's office, and set up a Shared Services Technology Special Fund to be funded by an unspecified percentage of central services fees. This bill also requires the Governor to submit a report to the 2011 Legislature recommending the state agency to house the Chief Information Officer, the funding level for the special fund, and legislation necessary to implement the Governor's recommendations.

I support improvements in Information Technology (IT) management and my Administration has demonstrated this through leadership that has automated numerous state functions that now allow the public to interact with state agencies electronically. We have also consolidated State Information Technology functions and enhanced the functions of the Information and Communication Services Division (ICSD) within the Department of Accounting and General Services (DAGS).

This legislation raises legal, fiscal and structural concerns that will need to be addressed in future legislation.

First, by failing to place the Chief Information Office and Steering Committee within a principal department, this bill likely violates Section 6 of Article V of the State Constitution which requires all executive offices, departments and instrumentalities of the

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
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State to be allocated within one principal department. A permanent location will need to be found for this office, which is recognized by this bill since it instructs the next Governor to determine where the function should be located.

Further this bill does not appear to provide an organizational structure or framework within which the Chief Information Officer can effectively manage and oversee statewide information technology governance. This bill has the Chief Information Officer bypassing the Director of DAGS and supervising the Department's ICSD. This creates reporting difficulties for the ICSD staff and will blur the lines of accountability for information technology functions.

Additionally, the special fund established in this bill does not meet the requirements of Section 37-52.3 and 37-52.4 of the Hawaii Revised Statutes which require such funds to have a clear nexus between the benefits sought and the charges levied. The bill does not create an appropriate means of financing the information technology functions.

Fortunately the Legislature recognized these failings and the measure contains language asking the Governor to propose legislation to correct these flaws.

For the foregoing reasons, I allowed Senate Bill No. 2548 to become law as Act 200, effective July 6, 2010, without my signature.

Sincerely,



LINDA LINGLE

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# A BILL FOR AN ACT

RELATING TO INFORMATION TECHNOLOGY.

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

1       SECTION 1. The legislature finds that in March 2009, the  
2 auditor released Report No. 09-06: "Audit of the State of  
3 Hawai'i's Information Technology: Who's in Charge?", conducted  
4 pursuant to section 23-4, Hawaii Revised Statutes, which  
5 requires the auditor to conduct postaudits of the transactions,  
6 accounts, programs, and performance of all departments, offices,  
7 and agencies of the State and its political subdivisions. Chief  
8 among the report's findings is the recommendation that the  
9 governor formally assign responsibility for the development and  
10 execution of the information technology strategic plan to the  
11 State's chief information officer. The report also made several  
12 recommendations to the legislature to explicate the  
13 responsibilities of the various information technology  
14 governance entities.

15       The purpose of this Act is to implement the information  
16 technology recommendations of auditor's Report No. 09-06 by  
17 establishing a full-time chief information officer and an  
18 information technology steering committee. This Act also



1 establishes the shared services technology special fund to  
2 facilitate the State's ability to generate overall cost  
3 reductions through economies of scale and decreased  
4 administrative burdens.

5 SECTION 2. Chapter 27, Hawaii Revised Statutes, is amended  
6 by adding a new section to part VII, to be appropriately  
7 designated and to read as follows:

8 "§27- Information technology; chief information officer;  
9 information technology steering committee; establishment;  
10 responsibilities. (a) There is established within the office  
11 of the governor a full-time chief information officer to  
12 organize, manage, and oversee statewide information technology  
13 governance, including supervision and oversight of the  
14 information and communication services division of the  
15 department of accounting and general services. The chief  
16 information officer shall be appointed by the governor as  
17 provided in section 26-34. The chief information officer shall  
18 report directly to the governor and, in conjunction with the  
19 information technology steering committee, shall:

20 (1) Develop, implement, and manage statewide information  
21 technology governance;



1       (2) Develop, implement, and manage the state information  
2       technology strategic plans;

3       (3) Develop and implement statewide technology standards;

4       (4) Report annually to the governor and the legislature on  
5       the status and implementation of the state information  
6       technology strategic plan; and

7       (5) Perform other necessary or desirable functions to  
8       facilitate the intent of this section.

9       (b) There is established an information technology  
10      steering committee to assist the chief information officer in  
11      developing the State's information technology standards and  
12      policies, including but not limited to:

13      (1) Assisting the chief information officer in developing  
14      and implementing the state information technology  
15      strategic plans;

16      (2) Assessing executive branch departments' progress in  
17      meeting the objectives defined in the state  
18      information technology strategic plans and identifying  
19      best practices for shared or consolidated services;

20      (3) Ensuring technology projects are selected based on  
21      their potential impact and risk to the State, as well  
22      as their strategic value;



- 1        (4) Ensuring that executive branch departments maintain  
2        sufficient tools to assess the value and benefits of  
3        technology initiatives;
- 4        (5) Assisting the chief information officer in developing  
5        state information technology standards and policies;  
6        and
- 7        (6) Clarifying the roles, responsibilities, and authority  
8        of the information and communication services  
9        division, specifically as it relates to its statewide  
10       duties.

11       The members of the information technology steering  
12       committee shall be appointed by the senate president and speaker  
13       of the house of representatives in equal number respectively and  
14       shall include representatives from executive branch departments,  
15       including large user agencies such as the department of  
16       education and the University of Hawaii; the judiciary; the  
17       legislature; and private individuals. The chief information  
18       officer shall serve as the chair of the committee and shall  
19       ensure that the committee is evaluated periodically.

20       (c) There is established within the department of budget  
21       and finance a special fund to be known as the shared services  
22       technology special fund to be administered and expended by the



1 chief information officer for the purposes of this subsection.  
2 per cent of the receipts collected from special funds  
3 pursuant to section 36-27 shall be deposited into the shared  
4 services technology special fund. Any law to the contrary  
5 notwithstanding, the moneys in the fund shall be used to fund  
6 the operations of the chief information officer and the  
7 information technology steering committee, including the  
8 employment and training of staff and any other activities deemed  
9 necessary by the chief information officer to carry out the  
10 purposes of this section."

11 SECTION 3. Section 36-27, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§36-27 Transfers from special funds for central service**  
14 **expenses. (a)** Except as provided in this section, and  
15 notwithstanding any other law to the contrary, from time to  
16 time, the director of finance, for the purpose of defraying the  
17 prorated estimate of central service expenses of government in  
18 relation to all special funds, except the:

- 19 (1) Special out-of-school time instructional program fund  
20 under section 302A-1310;  
21 (2) School cafeteria special funds of the department of  
22 education;



- 1 (3) Special funds of the University of Hawaii;
- 2 (4) State educational facilities improvement special fund;
- 3 (5) Convention center enterprise special fund under
- 4 section 201B-8;
- 5 (6) Special funds established by section 206E-6;
- 6 (7) Housing loan program revenue bond special fund;
- 7 (8) Housing project bond special fund;
- 8 (9) Aloha Tower fund created by section 206J-17;
- 9 (10) Funds of the employees' retirement system created by
- 10 section 88-109;
- 11 (11) Unemployment compensation fund established under
- 12 section 383-121;
- 13 (12) Hawaii hurricane relief fund established under chapter
- 14 431P;
- 15 (13) Hawaii health systems corporation special funds and
- 16 the subaccounts of its regional system boards;
- 17 (14) Tourism special fund established under section
- 18 201B-11;
- 19 (15) Universal service fund established under [chapter
- 20 ~~269,~~ section 269-42;
- 21 (16) Emergency and budget reserve fund under section
- 22 328L-3;





- 1 (17) Public schools special fees and charges fund under  
2 section 302A-1130[~~(f)~~];
- 3 (18) Sport fish special fund under section 187A-9.5;
- 4 (19) Glass advance disposal fee [~~special fund~~] established  
5 by section 342G-82;
- 6 (20) Center for nursing special fund under section  
7 304A-2163;
- 8 (21) Passenger facility charge special fund established by  
9 section 261-5.5;
- 10 (22) Court interpreting services revolving fund under  
11 section 607-1.5;
- 12 (23) Hawaii cancer research special fund;
- 13 (24) Community health centers special fund;
- 14 (25) Emergency medical services special fund; [~~and~~]
- 15 (26) Rental motor vehicle customer facility charge special  
16 fund established under section 261-5.6[~~r~~]; and
- 17 (27) Shared services technology special fund under section  
18 27- \_\_\_\_\_,

19 shall deduct five per cent of all receipts of all special funds,  
20 which deduction shall be transferred to the general fund of the  
21 State and become general realizations of the State. All  
22 officers of the State and other persons having power to allocate



1 or disburse any special funds shall cooperate with the director  
2 in effecting these transfers. To determine the proper revenue  
3 base upon which the central service assessment is to be  
4 calculated, the director shall adopt rules pursuant to chapter  
5 91 for the purpose of suspending or limiting the application of  
6 the central service assessment of any fund. No later than  
7 twenty days prior to the convening of each regular session of  
8 the legislature, the director shall report all central service  
9 assessments made during the preceding fiscal year.

10 (b) Notwithstanding any other law to the contrary, the  
11 director shall deposit per cent of all moneys collected  
12 pursuant to subsection (a) into the shared services technology  
13 special fund established pursuant to section 27- ."

14 SECTION 4. Section 36-30, Hawaii Revised Statutes, is  
15 amended by amending subsections (a) and (b) to read as follows:

16 "(a) Each special fund, except the:

17 (1) Transportation use special fund established by section  
18 261D-1;

19 (2) Special out-of-school time instructional program fund  
20 under section 302A-1310;

21 (3) School cafeteria special funds of the department of  
22 education;



- 1 (4) Special funds of the University of Hawaii;
- 2 (5) State educational facilities improvement special fund;
- 3 (6) Special funds established by section 206E-6;
- 4 (7) Aloha Tower fund created by section 206J-17;
- 5 (8) Funds of the employees' retirement system created by
- 6 section 88-109;
- 7 (9) Unemployment compensation fund established under
- 8 section 383-121;
- 9 (10) Hawaii hurricane relief fund established under section
- 10 431P-2;
- 11 (11) Convention [+]center[+] enterprise special fund
- 12 established under section 201B-8;
- 13 (12) Hawaii health systems corporation special funds and
- 14 the subaccounts of its regional system boards;
- 15 (13) Tourism special fund established under section
- 16 201B-11;
- 17 (14) Universal service fund established under [~~chapter~~
- 18 ~~269,~~] section 269-42;
- 19 (15) Emergency and budget reserve fund under section
- 20 328L-3;
- 21 (16) Public schools special fees and charges fund under
- 22 section 302A-1130[~~(f)~~];



- 1 (17) Sport fish special fund under section 187A-9.5;  
2 (18) Center for nursing special fund under section  
3 304A-2163;  
4 (19) Passenger facility charge special fund established by  
5 section 261-5.5;  
6 (20) Court interpreting services revolving fund under  
7 section 607-1.5;  
8 (21) Hawaii cancer research special fund;  
9 (22) Community health centers special fund;  
10 (23) Emergency medical services special fund; ~~and~~  
11 (24) Rental motor vehicle customer facility charge special  
12 fund established under section 261-5.6 ~~[7]~~; and  
13 (25) Shared services technology special fund under section  
14 27-\_\_\_\_,

15 shall be responsible for its pro rata share of the  
16 administrative expenses incurred by the department responsible  
17 for the operations supported by the special fund concerned.

18 (b) Administrative expenses shall include:

- 19 (1) Salaries;  
20 (2) Maintenance of buildings and grounds;  
21 (3) Utilities; ~~and~~  
22 (4) General office expenses ~~[7]~~; and



1        (5) Implementation of information technology policies  
2        developed by the chief information officer and the  
3        information technology steering committee pursuant to  
4        section 27- ."

5        SECTION 5. The governor shall report to 2011 legislature  
6 with recommendations for:

7        (1) The most appropriate state agency to house the chief  
8        information officer and any personnel under the  
9        authority of the chief information officer; whether as  
10       the executive of a separate agency or as part of an  
11       existing agency;

12       (2) The appropriate funding level for the shared services  
13       technology special fund established in section  
14       27- (c), Hawaii Revised Statutes, and the designated  
15       percentage of all moneys collected pursuant to section  
16       36-27(a), Hawaii Revised Statutes, for deposit into  
17       the shared services technology special fund; and

18       (3) Any legislation necessary to implement these  
19       recommendations.

20       SECTION 6. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1       SECTION 7. This Act shall take effect on January 1, 2011;  
2       provided that the amendments made to sections 36-27 and 36-30,  
3       Hawaii Revised Statutes, by sections 3 and 4 of this Act shall  
4       not be repealed when those sections are reenacted on June 30,  
5       2015, by section 34 of Act 79, Session Laws of Hawaii 2009.

6

APPROVED this                      day of                      , 2010

GOVERNOR OF THE STATE OF HAWAII