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## A BILL FOR AN ACT

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RELATING TO INDEMNIFICATION OF COUNTY AGENCIES.

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

1       SECTION 1. The legislature finds that the University of  
2       Hawaii campuses frequently use county parks and other facilities  
3       for university purposes and functions, such as physical  
4       education classes, athletic events, and graduation events. The  
5       legislature also finds that the current procedure for the  
6       University of Hawaii to obtain approval from the governor to  
7       indemnify a county for using a county facility for university  
8       purposes is unnecessarily burdensome. Functions at county parks  
9       and other facilities for university purposes occur annually and  
10      repeatedly throughout the academic semester.

11       The purpose of this Act is to facilitate the process by  
12      which the University of Hawaii obtains approval for the State to  
13      indemnify, defend, and hold harmless a county agency, its  
14      officers, agents, and employees for functions on county property  
15      for university purposes.

16       SECTION 2. Section 46-71.5, Hawaii Revised Statutes, is  
17      amended to read as follows:



1       "§46-71.5   Indemnification of county agencies.   (a)   To  
2   receive county aid, assistance, support, benefits, services, and  
3   interests in or rights to use county property, a state agency  
4   may agree in writing to an indemnity provision by which the  
5   State agrees to indemnify, defend, and hold harmless a county  
6   agency, its officers, agents, and employees when:

7       (1)   The governor approves the State's proposed  
8       indemnification; and

9       (2)   The comptroller, pursuant to section 41D-8.5, has  
10      obtained an insurance policy or policies in an amount  
11      sufficient to cover the liability of the State that  
12      reasonably may be anticipated to arise under the  
13      indemnity provision, or has determined that it is not  
14      in the best interest of the State to obtain insurance.

15      (b)   Notwithstanding subsection (a), the governor may  
16   delegate to the superintendent of education or the deputy  
17   superintendent if so designated by the superintendent of  
18   education the authority to agree to indemnify, defend, and hold  
19   harmless a county agency, its officers, agents, and employees  
20   when:



1 (1) The use of the county property will be for a public  
2 school purpose or a public school function;

3 (2) The governor approves, in writing, the indemnity  
4 provision to be used by the superintendent of  
5 education or the deputy superintendent if so  
6 designated by the superintendent of education which  
7 provision, upon approval, may serve as approval under  
8 this paragraph for all public school purposes or  
9 functions on county properties for the remainder of  
10 that same school year; and

11 (3) The comptroller, pursuant to section 41D-8.5, has  
12 obtained an insurance policy or policies in an amount  
13 sufficient to cover the liability of the State that  
14 reasonably may be anticipated to arise under the  
15 indemnity provision, or has determined that it is not  
16 in the best interest of the State to obtain insurance.

17 (c) Notwithstanding subsection (a), the board of regents  
18 of the University of Hawaii, or its designee, may agree to  
19 indemnify, defend, and hold harmless a county agency, its  
20 officers, agents, and employees when:



1        (1) The use of the county property will be for a

2        university purpose or a university function;

3        (2) The president of the University of Hawaii, or the

4        president's designee, following a favorable review by

5        the university general counsel or the counsel's

6        designee, approves the indemnity provision in writing;

7        and

8        (3) The chief financial officer of the University of

9        Hawaii, pursuant to section 304A-108, has obtained an

10       insurance policy or policies in an amount sufficient

11       to cover the liability of the university that

12       reasonably may be anticipated to arise under the

13       indemnity provision, or has determined that it is not

14       in the best interest of the university to obtain

15       insurance.

16       (d) Nothing in this section shall be construed to expand

17       the scope of liability of the State or University of Hawaii

18       beyond that set forth in chapters 661 and 662.

19       ~~[(e)]~~ (e) Nothing in this section shall be construed to

20       waive the immunity of the State or University of Hawaii from

21       suit in federal courts guaranteed by the Eleventh Amendment to



1 the United States Constitution. An indemnity provision not in  
 2 strict compliance with this section shall not give rise to a  
 3 claim against the State or University of Hawaii under chapter  
 4 661 or otherwise waive the State's or university's sovereign  
 5 immunity."

6 SECTION 3. Section 304A-108, Hawaii Revised Statutes, is  
 7 amended by amending subsection (d) to read as follows:

8 "(d) The university may purchase insurance to cover any  
 9 claims anticipated under this section[-] or section 46-71.5."

10 SECTION 4. Statutory material to be repealed is bracketed  
 11 and stricken. New statutory material is underscored.

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

13 INTRODUCED BY:

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# H.B. NO. 2299

**Report Title:**

Indemnification; University of Hawaii

**Description:**

Facilitates the process by which the University of Hawaii obtains approval to indemnify, defend, and hold harmless a county agency, its officers, agents, and employees for university purposes and functions on county property.

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

