
A BILL FOR AN ACT

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 on July 1, 2018.



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 university functions on county property.
(HB2299 CD1)

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