

JAN 24 2018

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 educational 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 agree to indemnify a county when a University of Hawaii campus
8 uses a county facility for educational purposes is unnecessarily
9 burdensome, especially for university purposes and functions
10 that occur repeatedly throughout the academic semester as well
11 as annually.

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

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

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

9 (1) The governor approves the State's proposed
10 indemnification; and

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

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

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1 school purpose or a public school function;

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

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

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

20 (1) The use of the county property will be for a
21 university purpose or a university function;

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(2) The board of regents of the University of Hawaii or designee approves, in writing, the indemnity provision to be used; and

(3) The University of Hawaii has obtained an insurance policy or policies in an amount sufficient to cover the liability that reasonably may be anticipated to arise under the indemnity provision, or has determined that it is not in the best interest of the university to obtain insurance.

~~[(e)]~~ (d) An indemnity provision not in strict compliance with this section shall not give rise to a claim against the State under chapter 661 or otherwise waive the State's sovereign immunity."

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

SECTION 5. This Act shall take effect upon approval.

INTRODUCED BY: 

BY REQUEST

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Report Title:

Indemnification; University of Hawaii

Description:

Facilitate 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 facilities.

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

JUSTIFICATION SHEET

SB. NO. 2834

DEPARTMENT: University of Hawaii

TITLE: A BILL FOR AN ACT RELATING TO
INDEMNIFICATION OF COUNTY AGENCIES.

PURPOSE: Facilitate 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 facilities.

MEANS: Amend section 46-71.5, Hawaii Revised
Statutes (HRS).

JUSTIFICATION: University of Hawaii campuses frequently use
county parks and other facilities for
educational purposes and functions, such as
physical education classes, athletic events,
and graduation events. The current procedure
for the University of Hawaii to obtain
approval from the governor to agree to
indemnify a county when a University of
Hawaii campus uses a county facility for
educational purposes is unnecessarily
burdensome, especially for university
purposes and functions that occur repeatedly
throughout the academic semester as well as
annually.

Impact on the public: None.

Impact on the department and other agencies:
The impact will reduce the amount of time
and energy spent by the University, the
Department of Accounting and General
Services, the Office of the Attorney
General, and the Office of the Governor, on
typically routine matters. Currently, the
University processes approximately 50
memoranda a year to ultimately obtain
approval by the Governor for basic and

customary use of parks and facilities owned and operated by a county on a one-time, limited basis. With autonomy, the University developed its own risk management program and is responsible for all claims and judgments against it through a combined program of self-insurance and commercial insurance policies, as set forth in the Risk Management Special Fund. This measure aligns the administrative and financial responsibilities of an indemnification made by the University with its autonomous authority, and streamlines the approval process in a manner consistent with its legal standing.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	UOH-100, UOH-210, UOH-700, UOH-800, UOH-900.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.