

ACT 11

H.B. NO. 7-S

A Bill for an Act Relating to State Funds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to improve government operations by:

- (1) Creating an interagency federal revenue maximization revolving fund to be used to aggressively pursue, collect, and distribute additional federal fund reimbursements;
- (2) Requiring that the expenditure of all revolving fund proceeds as well as funds established to provide interdepartmental services shall be made by appropriation or allotment, unless specifically exempted;
- (3) Establishing a financial institution examiners' revolving fund for the payment of various personnel and administrative expenses incurred during the course of a financial institution examination; and
- (4) Exempting certain funds from the requirements to pay administrative expenses and central services assessments.

SECTION 2. Chapter 29, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§29- Interagency federal revenue maximization revolving fund. (a) There is established in the state treasury, an interagency federal revenue maximization revolving fund into which shall be deposited all proceeds collected from the federal government for prior periods' reimbursable costs not previously claimed by the State for reimbursement by federally-funded state programs. For purposes of this chapter, federally-funded state programs include but shall not be limited to those federally-funded programs within the departments of human services, education, and health. Expenditures and transfers from the fund shall be made by the comptroller in proportional allocations established by the comptroller and the director of finance. Transfers shall be made to the department claiming the reimbursement for expenses incurred related to federal fund reimbursement claims or appropriated by the governor, and to the general fund of the State. Moneys in the fund may be expended for consultant services rendered under subsection (b).

(b) Notwithstanding any other law to the contrary, the comptroller, by contract, may retain the services of certified public accountants and other consultants to pursue and collect federal fund reimbursements, and perform other duties necessary to administer this section. At the option of the comptroller, consultants retained by contract under this subsection may be compensated on:

- (1) A fixed-price basis;
- (2) An hourly rate basis with or without a fixed cap; or
- (3) Through a contingent fee arrangement specified in the contract.

Such compensation shall be payable out of all sums the consultant recovers for the State.

(c) All unobligated, unencumbered, or unexpended funds remaining in the interagency federal revenue maximization revolving fund as of June 30, 1999, shall revert to the general fund of the State. Upon final disbursement of remaining balances to the general fund on June 30, 1999, the interagency federal revenue maximization revolving fund shall be terminated.

(d) No later than twenty days prior to the convening of each regular session of the legislature, the comptroller shall submit to the legislature a report including the following information:

- (1) Itemized amounts of all federal reimbursements;
- (2) Description and amounts of all expenses incurred by the fund;
- (3) Method of compensation and amounts of compensation for all certified public accountants and other consultants retained by the comptroller to pursue and collect federal fund reimbursements and perform other duties necessary to administer this section;
- (4) Method of determining allocation of funds;
- (5) Amounts allocated by the comptroller; and
- (6) Fund balances.”

SECTION 3. Chapter 201E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§201E- Expenditures of revolving funds under the corporation exempt from appropriation and allotment. Except as to administrative expenditures, and except as otherwise provided by law, expenditures from any revolving fund administered by the corporation may be made by the corporation without appropriation or allotment of the legislature; provided that no expenditure shall be made from and no obligation shall be incurred against any revolving fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require the proceeds of any revolving fund administered by the corporation to be reappropriated annually.”

SECTION 4. Chapter 206E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§206E- Expenditures of revolving funds under the authority exempt from appropriation and allotment. Except as to administrative expenditures, and except as otherwise provided by law, expenditures from any revolving fund administered by the authority may be made by the authority without appropriation or allotment of the legislature; provided that no expenditure shall be made from and no obligation shall be incurred against any revolving fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require the proceeds of any revolving fund administered by the authority to be reappropriated annually.”

SECTION 5. Chapter 412, Article 2, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§412:2- Financial institution examiners’ revolving fund and appointment of examiners. (a) There is established in the state treasury a separate fund designated as the financial institution examiners’ revolving fund.

(b) The commissioner may appoint financial institution examiners, not subject to chapters 76 and 77, who shall examine the affairs, transactions, accounts, records, documents, and assets of financial institutions. The commissioner also may appoint administrative support personnel, not subject to chapters 76 and 77, who shall assist and support the examiners. The commissioner may pay the salaries of the financial institution examiners and administrative support personnel from the financial institution examiners revolving fund.

(c) The fund also may be used to reimburse financial institution examiners and administrative support personnel for the following expenses necessarily incurred on account of an examination and the education and training of financial institution examiners and administrative support personnel:

- (1) Actual travel expenses in amounts customary for these expenses and approved by the commissioner;
- (2) A reasonable living expense allowance at a rate customary for these expenses and approved by the commissioner; and
- (3) Any fee or tuition necessary to attend educational and training conferences, workshops, seminars, and any similar events of this nature.

(d) The fund also may be used for other expenses relating to examinations of financial institutions and administrative costs, including personnel costs of the division and costs incurred by supporting offices and divisions.

(e) All persons receiving any reimbursement or compensation from the financial institution examiners' revolving fund shall submit to the commissioner for approval a detailed account of all expenses and compensation necessarily incurred. Persons shall not receive or accept any additional compensation on account of an examination. In the case of an examination, any reimbursement or compensation made by the fund and approved by the commissioner shall be charged to the financial institution being examined by the commissioner and all receipts shall be credited to the fund.

(f) Moneys in the financial institution examiners' revolving fund shall not revert to the general fund.

(g) Before August 16, 1995, and thereafter before July 2, 1996, each financial institution shall pay a sum of \$250 plus \$50 for each office and branch office maintained by the financial institution, to the commissioner to be credited to the financial institution examiners' revolving fund.

(h) Before July 2, 1997, and each year thereafter before July 2, each financial institution shall pay a sum of \$500 plus \$100 for each office and branch office maintained by the financial institution, to the commissioner to be credited to the financial institution examiners' revolving fund."

SECTION 6. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

“§36-27 Transfers from special funds for central service expenses.

Except as provided in this section, and notwithstanding any other law to the contrary, from time to time the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special summer school fund under section 298-3.5;
- (2) School cafeteria special funds of the community colleges and the department of education;
- (3) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center capital and operations special fund;
- (6) Special [fund] funds established by section 206E-6;
- [[(7)]] Housing loan program revenue bond special fund[, housing];
- (8) Housing project bond special fund;
- [[(8)]] (9) Aloha Tower fund created by section 206J-17; [and]
- [[(9)]] (10) [The spouse] Spouse and child abuse special account under section 346-7.5; [the spouse]
- (11) Spouse and child abuse special account under section 601-3.6[.];
- (12) Funds of the employees' retirement system created by section 88-109;
- (13) Unemployment compensation fund established under section 383-121; and

(14) Hawaii hurricane relief fund established under chapter 431P, shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.”

SECTION 7. Section 36-30, Hawaii Revised Statutes, is amended to read as follows:

“§36-30 Special fund reimbursements for departmental administrative expenses. (a) Each special fund, except the:

- (1) Transportation use special fund established by section 261D-1;
- (2) Special summer school fund under section 298-3.5;
- (3) School cafeteria special funds of the community colleges, and the department of education;
- (4) Special funds of the student housing, summer session, division of continuing education and community service, campus center, and bookstores of the University of Hawaii;
- (5) State educational facilities improvement special fund;
- (6) Special [fund] funds established by section 206E-6;
- [[](7)[]] Aloha Tower fund created by section 206J-17; [and]
- [[](8)[]] Spouse and child abuse special account under section 346-7.5; [the spouse]
- (9) Spouse and child abuse special account under section 601-3.6[.];
- (10) Funds of the employees’ retirement system created by section 88-109;
- (11) Unemployment compensation fund established under section 383-121;
- (12) Hawaii hurricane relief fund established under chapter 431P; and
- (13) Convention center capital and operations special fund established under section 206X-10.5,

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

(b) Administrative expenses shall include:

- (1) Salaries;
- (2) Maintenance of buildings and grounds;
- (3) Utilities; and
- (4) General office expenses.

(c) The pro rata share of each special fund shall be that proportion of the administrative expenses of the department, including those paid from all special funds administered by the department, which the expenditures of the special fund bear to the total expenditures of the department; provided that in determining the amount to be charged to each special fund for its pro rata share:

- (1) Credit shall be given for any administrative expenses paid from the special fund concerned; and
- (2) Other adjustments shall be made as necessary to achieve an equitable apportionment.

(d) The director of finance may determine the amount to be charged to each special fund and may cause the amounts to be transferred to the general [funds] fund as reimbursements.

(e) No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all departmental administrative expenses assessments made during the preceding fiscal year."

SECTION 8. Section 37-40, Hawaii Revised Statutes, is amended to read as follows:

"§37-40 Exceptions; [revolving and] trust funds. Except as to administrative expenditures, and except as otherwise provided by law, expenditures from [revolving and] trust funds [and funds established to provide services rendered by any state department or establishment to other state departments or establishments or to any political subdivision of the State,] may be made by any department or establishment without appropriation or allotment; provided that no expenditure shall be made from and no obligation shall be incurred against any [revolving fund or] trust fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require [that revolving funds, trust funds or any refund account] any trust fund established pursuant to law be reappropriated annually."

SECTION 9. Section 412:2-105, Hawaii Revised Statutes, is amended to read as follows:

"§412:2-105 Fees and assessments. (a) The commissioner may charge an examination fee based upon the cost per hour per examiner for all financial institutions examined by the commissioner or the commissioner's staff. [The] Effective July 1, 1995, the hourly fee shall be [established by the commissioner by rule] \$40. After July 1, 1996, the commissioner may establish, increase, decrease, or repeal the hourly fee when necessary pursuant to rules adopted in accordance with chapter 91.

(b) In addition to the examination fee, the commissioner [[]may[]] charge any financial institution examined or investigated by the commissioner or the commissioner's staff, additional amounts for travel, per diem, mileage and other reasonable expenses incurred in connection with the examination.

(c) The commissioner shall bill the affected financial institution for examination fees and expenses as soon as feasible after the close of [such] the examination or investigation. The affected financial institution shall pay the division of financial institutions within thirty days following the billing. [Unless otherwise provided by statute, all] All such payments shall be deposited to the [general fund of the State.] financial institution examiners' revolving fund. All disputes relating to [such] these billings between the affected financial institution and the commissioner shall be resolved in accordance with the procedures for contested cases under chapter 91.

(d) The commissioner [may], by rules adopted in accordance with chapter 91, may set reasonable fee amounts to be collected by the division in connection with its regulatory functions, including, without limitation, any fees for renewals, applications, licenses, and charters. Unless otherwise provided by statute, all such fees shall be deposited into the [general fund of the State.] financial institution examiners' revolving fund.

(e) A Hawaii financial institution [which] that fails to make a payment required by this section shall be subject to an administrative fine of not more than \$250 per day for each day it is in violation of this section, which fine, together with the amount due under [foregoing provisions of] this section, may be recovered

pursuant to the provisions of section 412:2-611[.] and shall be deposited to the financial institution examiners' revolving fund.”

SECTION 10. Act 200, Session Laws of Hawaii 1994, is amended by amending section 12 to read as follows:

“SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the sum of \$900,000, or so much thereof as may be necessary for fiscal year 1994–1995[.] and fiscal year 1995–1996, for the purposes of this Act; provided that no funds shall be made available under this Act unless the Office of Hawaiian Affairs provides a dollar-for-dollar match of funds which are derived solely from revenues generated under the authority of section 5(f) of the Admission Act.

The sums appropriated or authorized shall be expended by the department of accounting and general services for the purposes of this Act.

The department of accounting and general services may hire staff necessary to accomplish the purposes of this Act. Such persons shall be exempt from chapters 76, 77, and 89, Hawaii Revised Statutes.”

SECTION 11. There is appropriated out of the revenues of the interagency federal revenue maximization revolving fund the sum of \$425,000, or so much thereof as may be necessary for fiscal year 1995–1996, and \$425,000, or so much thereof as may be necessary for fiscal year 1996–1997, to the department of human services for expenses, including the creation and hiring of temporary staff, related to the recovery of federal fund reimbursements under section 29- , Hawaii Revised Statutes. The sums appropriated shall be expended by the department of human services for the purposes of this Act.

SECTION 12. There is appropriated out of the revenues of the interagency federal revenue maximization revolving fund the sum of \$200,000, or so much thereof as may be necessary for fiscal year 1995–1996, and \$200,000, or so much thereof as may be necessary for fiscal year 1996–1997, to the department of education for expenses, including the creation and hiring of temporary staff, related to the recovery of federal fund reimbursements under section 29- , Hawaii Revised Statutes. The sums appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 13. There is appropriated out of the revenues of the interagency federal revenue maximization revolving fund the sum of \$425,000, or so much thereof as may be necessary for fiscal year 1995–1996, and \$425,000, or so much thereof as may be necessary for fiscal year 1996–1997, to the department of health for expenses, including the creation and hiring of temporary staff, related to the recovery of federal fund reimbursements under section 29- , Hawaii Revised Statutes. The sums authorized shall be expended by the department of health for the purposes of this Act.

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 15. This Act shall take effect on July 1, 1995; provided that:

- (1) Section 10 shall take effect on June 29, 1995;
- (2) Sections 3, 4, and 8 shall take effect on July 1, 1996; and
- (3) Section 2 shall be repealed on June 30, 1999.

(Approved June 29, 1995.)

Note

1. Edited pursuant to HRS §23G-16.5.