

ACT 161

S.B. NO. 937

A Bill for an Act Relating to the University of Hawaii.

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

SECTION 1. The legislature finds that ongoing debate over whether the University of Hawaii should be given the authority to directly control income generated from tuition and other charges assessed against students raises certain policy issues regarding who should have control over the disposition of tuition income as well as who should be setting tuition rates and at what levels. Over the past decade, the legislature has provided the University of Hawaii with increasing administrative and budget flexibility with the intent that the university should be more directly involved in determining how revenues are expended. The legislature further finds that concomitant with this policy discussion about tuition levels and raising additional income, is the consideration that the University of Hawaii is a state-created and supported institution which must ensure equal access for students who may need financial support in order to gain a college education. Thus, the legislature believes that it is necessary to ensure that the State's higher education policy maintains a balance between providing increasing fiscal autonomy to the university with providing equal access to financially needy students. In order to maintain this balance, the legislature will continue its commitment to providing flexibility and autonomy to the university.

The purpose of this Act is to provide authority to the board of regents to establish the mechanisms by which the University of Hawaii can begin to adopt an integrated plan for the development of the university's programs with the generation of income.

SECTION 2. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§304- Benchmarks. (a) The board of regents shall adopt benchmarks to expand and develop the University of Hawaii to become a statewide campus that provides Hawaii with a higher education system designed to meet the future needs and demands of the citizens of the State, and to capitalize on the university's unique resources and location to become an international educational, research, and service center known both in the United States and throughout the Pacific/Asian countries. The benchmarks shall include but not be limited to:

- (1) Expanding access to educational opportunity throughout the State;
- (2) Striving for excellence in undergraduate education;
- (3) Requiring the university to continue to gain prominence in research and distance learning;
- (4) Revitalizing services to the State;
- (5) Enhancing the international role of the university; and
- (6) Maintaining diversity by clarifying campus missions and coordinating campus plans.

(b) Beginning with the 1997-1998 fiscal year, the board of regents shall apply these benchmarks in the development of their annual budget request to the legislature and adoption of tuition schedules.

(c) The University of Hawaii shall conduct a periodic review of all instruction, organized research, public service, academic support, student services, and institutional support programs at each campus to determine whether the programs are operating for the purposes originally established and not inconsistent with the benchmarks adopted pursuant to subsection (a). The university shall submit a report

of its findings to the legislature no later than twenty days prior to the convening of the legislature in the second year of each fiscal biennium.”

SECTION 3. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§304- University of Hawaii tuition and fees special fund; tuition schedule and waivers. (a) There is established the University of Hawaii tuition and fees special fund into which shall be deposited all revenue collected by the university for regular credit tuition and tuition related course and fee charges, except as provided by law. Moneys deposited into the fund shall be expended to maintain or improve the university’s programs and operations and shall not be:

- (1) Used as a justification for reducing any budget request or allotment to the University of Hawaii unless the university requests such a reduction;
- (2) Transferred unless otherwise authorized by the legislature; and
- (3) Restricted by the governor or the director of finance without the prior approval of the legislature.

Any rule, policy, or action of any agency or individual in contravention of this subsection shall be void as against public policy.

(b) Notwithstanding section 304-4, resident undergraduate tuition shall not exceed thirty per cent of the estimated average annual cost of education; provided that the tuition for any apprenticeship training program at the community colleges shall be at least 30 cents per clock hour.

For the purposes of this subsection, the “estimated average annual cost of education”, as formulated by the university, shall include, but not be limited to, all instructional costs, all student service costs, and a pro rata share of institutional support, academic support, and fringe benefits.

(c) The board of regents, or its designated representatives, is authorized to grant, modify, or suspend tuition waivers. The board of regents shall provide a report and make recommendations as appropriate to the legislature on all tuition waivers no later than twenty days prior to the convening of each regular session.”

SECTION 4. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§304- Budget appropriations; University of Hawaii. (a) Beginning in fiscal year 1997-1998, and every year thereafter, the legislature shall formulate general fund budget appropriations for the University of Hawaii by combining:

- (1) A base figure representing all operating general fund amounts appropriated to the University of Hawaii for fiscal year 1994-1995; and
- (2) All costs borne by the University of Hawaii for:
 - (A) All collective bargaining agreements entered into after fiscal year 1995-1996;
 - (B) Any new program or expansion of an existing program mandated by the legislature;
 - (C) Tuition waivers mandated by the legislature;
 - (D) Increases in enrollment; and
 - (E) Adjustments for inflation.

(b) No revenue received by the University of Hawaii pursuant to the University of Hawaii tuition and fees special fund established under section 304- may be used by the governor or the director of finance as a justification for reducing any budget request or allotment to the University of Hawaii unless the university requests such a reduction.”

SECTION 5. 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 established by section 206E-6;
- [[](7)[]] Housing loan program revenue bond special fund, housing project bond special fund;
- [[](8)[]] Aloha Tower fund created by section 206J-17; [and]
- [[](9)[]] The spouse and child abuse special account under section 346-7.5; the spouse and child abuse special account under section 601-3.6[.]; and
- (10) The University of Hawaii tuition and fees special fund;

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.”

SECTION 6. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“§36-30 Special fund reimbursements for departmental administrative expenses.¹ (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 established by section 206E-6;
- [[](7)[]] Aloha Tower fund created by section 206J-17; [and]
- [[](8)[]] The spouse and child abuse special account under section 346-7.5; the spouse and child abuse special account under section 601-3.6[.]; and
- (9) The University of Hawaii tuition and fees special fund;

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.”

SECTION 7. Section 37-74, Hawaii Revised Statutes, is amended to read as follows:

“§37-74 Program execution. (a) Except as limited by policy decisions of the governor, appropriations by the legislature, and other provisions of law, the several agencies responsible for administering state programs shall administer their program assignments and shall be responsible for their proper management.

(b) The appropriations by the legislature for a biennium shall be allocated between the two fiscal years of the biennium in the manner provided in the budget or appropriations act and as further prescribed by the director of finance. The amounts allocated for each fiscal year shall be subject to the allotment system prescribed in chapter 37, part II. Each agency (except the courts), in estimating its quarterly requirements under chapter 37, part II, shall prepare a plan for the fiscal year for the operation of each of the programs it is responsible for administering. The operations plan shall be in such form and content as the department of budget and finance may prescribe. It shall be submitted, together with the estimated quarterly requirements, to the department of budget and finance on such date as the department may prescribe.

(c) The department of budget and finance shall:

(1) Review each operations plan to determine:

- (A) That it is consistent with the policy decisions of the governor and appropriations by the legislature;
- (B) That it reflects proper planning and efficient management methods; and
- (C) That appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year;

provided that the department of budget and finance shall review the operations plan submitted by the University of Hawaii solely for consistency with the allotment ceilings established by the governor under section 37-34, appropriations by the legislature, and the status of revenues to support operations plans for all state programs;

- (2) Approve the operations plan if satisfied that it meets the requirements under paragraph (1). Otherwise, the department of budget and finance shall require revision of the operations plan in whole or in part; and
- (3) Modify or withhold the planned expenditures at any time during the appropriation period if the department of budget and finance finds that the expenditures are greater than those necessary to execute the programs at the level authorized by the governor and the legislature, or that state receipts and surpluses will be insufficient to meet the authorized expenditure levels; provided that the planned expenditures for the University of Hawaii may be modified or withheld only in accordance with sections 37-36 and 37-37.

(d) No appropriation transfers or changes between programs or agencies shall be made without legislative authorization; provided that:

- (1) Authorized transfers or changes, when made, shall be reported to the legislature;
- (2) The University of Hawaii shall have the flexibility to transfer general fund appropriations for the operating cost category among programs with the same or similar objectives, among cost elements in a program, and between quarters, as applicable, with due regard for statutory requirements, changing conditions, the needs of the programs, and the effective utilization of resources; and
- (3) The university shall account for each transfer implemented under this subsection in quarterly reports to the governor and annual reports at the end of each fiscal year to the legislature and the governor, which shall be prepared in the form and manner prescribed by the governor and shall include information on the sources and uses of the transfer.

[(e) The University of Hawaii shall not use current appropriations in any manner that would result in the expansion of programs or the initiation of new programs that may require any future increase in the commitment of state resources, without the specific prior concurrence of the legislature and advice of the governor.]”

SECTION 8. Section 304-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The board may charge a resident tuition fee for regular courses of instruction at any University of Hawaii campus, including any community college; provided that the tuition fee for nonresident students, both undergraduate and graduate, shall be not less than two times the tuition fee for resident students, but in no event less than two times the undergraduate tuition fee for resident students at the Manoa Campus.

The board may also charge other fees for special programs of instruction, as well as laboratory fees or course fees or fees for student activities. [However, each fee shall be the same for resident and nonresident students.] The board may charge other fees for summer session or evening courses, including differential fees for nonresident students.

The nonresident tuition and fee differential shall not be applicable to:

- (1) East-West Center student grantees pursuing baccalaureate or advanced degrees;
- (2) United States military personnel stationed in Hawaii on active duty, and their authorized dependents during the period that the personnel are stationed in the State;
- (3) Hawaiians, as defined in section [304-14.9,] 10-2, residing outside of Hawaii;
- (4) Students from any Pacific island or Asian district, commonwealth, territory, or insular jurisdiction, state, or nation that does not provide public institutions of higher learning; and
- (5) Employees of the university, their spouses, and dependents.

The board may waive entirely or reduce the tuition fee or any of the other fees for graduate teaching and research assistants. The board may enter into agreements with government and university officials of any other state or foreign country to provide for reciprocal waiver of the nonresident tuition and fee differential. The board may waive the nonresident tuition and fee differential for selected students from Pacific and Asian jurisdictions when their presence would be beneficial to the university or the State.”

SECTION 9. Section 304-8, Hawaii Revised Statutes, is amended to read as follows:

“**§304-8 Appropriations; accounts; reports.** (a) Moneys appropriated by the legislature for the university shall be payable by the director of finance, upon vouchers approved by the board of regents or by any officer elected or appointed by the board under section 304-4 and authorized by the board to approve such vouchers on behalf of the board. All moneys received by or on behalf of the board of the university shall be deposited with the director of finance, except that any moneys received from the federal government or from private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received and except that with the concurrence of the director of finance, moneys received from the federal government for research, training, and other related purposes of a transitory nature and moneys in trust or

revolving funds administered by the university may be deposited in depositories other than the state treasury. [Income] Beginning with the 1995-1996 fiscal year, all income from [fees for] regular credit tuition and [similar] tuition related course and fee charges against students [and income] shall be deposited to the credit of the student tuition and fees special fund pursuant to section 304- ; provided that such income collected during the 1994-1995 fiscal year credited to the 1995-1996 academic year shall be deposited into the fund. Income derived from sale of goods or services shall be deposited to the credit of the general fund of the State; provided that income from university projects as defined and described in sections 306-1 to 306-12, may be credited to special or other funds; provided further that in each fiscal year from [1990-1991 through 1999-2000,] 1997-1998 through 2001-2002, at least the first \$1,000,000 of tuition collected by the university shall be deposited in the state treasury to the credit of the Hawaii opportunity program in education special fund. The university shall also actively seek private participation in the Hawaii opportunity program in education program.

(b) The university shall annually provide the legislature at least twenty days prior to the convening of the regular session with an itemized account of the income to and the expenditure from each university special and revolving fund during the previous fiscal year.”

SECTION 10. Section 304-14, Hawaii Revised Statutes, is repealed.

SECTION 11. Section 304-14.5, Hawaii Revised Statutes, is repealed.

SECTION 12. Section 304-14.6, Hawaii Revised Statutes, is repealed.

SECTION 13. Section 304-14.7, Hawaii Revised Statutes, is repealed.

SECTION 14. Section 304-14.8, Hawaii Revised Statutes, is repealed.

SECTION 15. Section 304-14.9, Hawaii Revised Statutes, is repealed.

SECTION 16. On July 3, 1995, \$5,000,000 shall be transferred from the Hawaii opportunity program in education special fund to the University of Hawaii student tuition and fees special fund.

SECTION 17. Notwithstanding applicable tuition charges, for the fiscal biennium 1995-1997, the board of regents of the University of Hawaii shall assess a nonresident fee of \$65 per student at the University of Hawaii, Manoa campus, and \$25 for all other university campuses. The fee shall be assessed each semester.

SECTION 18. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 19. This Act shall take effect on July 1, 1995.

(Approved June 14, 1995.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.