

**ACT 175**

H.B. NO. 1409

A Bill for an Act Relating to the State of Hawaii Endowment Fund.

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

SECTION 1. The legislature finds that the Honolulu Symphony provided world-class music to Hawaii audiences for over ninety years, contributing greatly to the improvement of the business climate of the State and serving as an important state cultural, educational, and economic asset.

For these reasons, the legislature established the State of Hawaii endowment fund as a separate fund of the Honolulu symphony trust, which was created by trust agreement on December 5, 1986, and appropriated \$2,000,000 to the fund following

its creation. The income and capital gains from the fund are designated by statute to be used for the operations of the symphony.

Since May 1993, however, the symphony society, which manages the Honolulu Symphony, has not presented a concert and, in March 1994, it cancelled the season, thereby ceasing the core function of the symphony, which is the performance of music by its musicians.

In the meantime, the musicians, with the assistance of four other presenters, have formed the Hawaii Symphony Orchestra, which began performing concerts in 1994, and made its 1995 debut with a resoundingly successful concert conducted by Maestro Seiji Ozawa.

The purpose of this Act is to clarify the legislative intent that the income and capital gains of the State of Hawaii endowment fund are to be used for the production of music by an Oahu-based symphony orchestra.

SECTION 2. Section 40-88, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be established as a separate fund of the Honolulu symphony trust created by the trust agreement dated December 5, 1986, a fund to be known as the State of Hawaii endowment fund[, the]. The income and capital gains from [which fund shall be] the \$2,000,000 contributed by the State of Hawaii shall be transferred on a quarterly basis to the state foundation on culture and the arts (SFCA), performing and visual arts events private contribution account to be used for [operations of the Honolulu symphony.] the production of music by an Oahu-based symphony orchestra as determined by the state foundation on culture and the arts. The State of Hawaii endowment fund shall be subject to the restrictions that:

- (1) No part of the principal amount contributed to the fund by the State or by matching grants shall be used for operations of the Honolulu symphony;
- (2) Income and capital gains from the fund shall not be distributed for use in the operations of the Honolulu symphony during any period that the value of the fund shall be less than the principal amounts contributed to the fund; and
- (3) The amounts contributed to the fund by the State shall revert to the State to the extent that matching or other conditions to the grant of the funds are not met, and the fund also shall be subject to additional restrictions as may be imposed with respect to transfers of funds in future legislation appropriating sums to be contributed to the fund.”

SECTION 3. At the end of each fiscal year, any unused income from the State of Hawaii endowment fund shall be transferred to the state foundation on culture and the arts for the production of symphonic music and musicians' salaries.

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

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

(Approved June 14, 1995.)