

ACT 161

S.B. NO. 2115

A Bill for an Act Relating to Preaudits for Proposed Payments.

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

PART I

SECTION 1. The legislature finds that like the University of Hawaii, the department of education should be required to preaudit all proposed payments of \$10,000 or more, but should have preaudit flexibility for proposed payments of less than \$10,000. The legislature also finds that the fiscal autonomy previously granted to the University of Hawaii and the department of education until June 30, 2011, should be extended.

The purpose of this Act is to:

- (1) Clarify that the department of education is required to preaudit proposed payments of \$10,000 or more;
- (2) Require the University of Hawaii and the department of education to preaudit samples of proposed payments of less than \$10,000 to determine the propriety of expenditures and compliance with applicable laws, executive orders, and rules, as their respective chief financial officers determine to be appropriate; and
- (3) Extend the fiscal autonomy granted to the University of Hawaii and the department of education until June 30, 2015.

PART II

SECTION 2. This part amends section 40-1, Hawaii Revised Statutes, in the form in which it will read after it is repealed and reenacted under Act 58, Session Laws of Hawaii 2004, as amended, on June 30, 2010.

SECTION 3. Section 40-1, Hawaii Revised Statutes, is amended¹ to read as follows:

“§40-1 Comptroller to supervise accounts, etc. (a) The comptroller shall be the general accountant of the State[,] and [he] shall cause to be recorded every receipt and disbursement of money made to, by, or through the treasury. [He] The comptroller shall have the power to withhold any disbursement for which no appropriation has been made or which would cause a specific appropriation to be exceeded.

(b) With respect to the executive branch, [he] except the University of Hawaii until June 30, 2015, and the department of education until June 30, 2015, the comptroller shall have complete supervision of all accounts. [He] The comptroller shall preaudit² all proposed payments of \$10,000 or more to determine the propriety of expenditures and compliance with [such] executive

~~orders[5] and rules [and regulations as] that may be in effect. [He shall³ when] When necessary, the comptroller shall withhold [his] approval of any payment. Whenever [he withholds his approval, he shall promptly notify] approval is withheld, the department or agency concerned[-] shall be promptly notified. With respect to the University of Hawaii and the department of education, the comptroller shall issue warrants for the release of funds for the operating costs of the university or the department of education, as applicable, in amounts and at times mutually agreed upon by the governor or director of finance and the university or department of education, as applicable; provided that:~~

- ~~(1) The amounts released shall not exceed the allotment ceilings for the funding sources of the university's or the department of education's appropriations established by the governor for an allotment period pursuant to section 37-34; and~~
- ~~(2) The comptroller may issue warrants as an advance from the state treasury to the University of Hawaii and the department of education, to establish a checking account and provide working capital in amounts and at times mutually agreed upon by the governor or director of finance and the University of Hawaii and the department of education.~~

~~The University of Hawaii and the department of education shall preaudit all proposed payments of \$10,000 or more and shall preaudit samples of the population of proposed payments of less than \$10,000; provided that the sample size comprises at least five per cent of the population, and is of a size that the chief financial officers of the University of Hawaii and the department of education, as applicable, determine appropriate, to determine the propriety of expenditures and compliance with applicable laws, executive orders, and rules as may be in effect. The University of Hawaii and the department of education shall make disbursements for operating expenses from the amounts released by the comptroller and maintain records and documents necessary to support those disbursements at times mutually agreed upon by the university president or the superintendent of education, as applicable, and the comptroller; provided that when requested by the university or department of education, the comptroller shall make all disbursements for the university or department of education, as applicable, subject to available allotment. Funds released pursuant to this section shall be deposited by the university or department of education, as applicable, in accordance with the provisions applicable to the director of finance under chapter 38. Any interest earned on the deposit of funds released pursuant to this section shall be deposited in the state treasury at the end of each fiscal year.~~

~~(c) With respect to the judiciary and the legislature, [he] the comptroller shall make available to the judiciary and the legislature the total amount appropriated to each, except that the judiciary and the legislature may request [his] the comptroller's services in maintaining custody of the amount appropriated to each and in making payments therefrom. When such services are requested, [he] the comptroller shall make all disbursements requested by the judiciary or the legislature, but [he] shall not make any disbursement⁴ for which no appropriation has been made or which would cause a specific appropriation to be exceeded.~~

~~(d) Any financial transaction recorded [by the comptroller] may be inspected by the public."~~

PART III

SECTION 4. This part amends section 40-1, Hawaii Revised Statutes, which is set for repeal and reenactment under Act 58, Session Laws of Hawaii 2004, as amended, in the event that the 2010 legislature either repeals the

reenactment provisions of Act 58, Session Laws of Hawaii 2004, as amended, that apply to this section, or extends the date on which this section will be repealed and reenacted.

SECTION 5. Section 40-1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) With respect to the executive branch, except the University of Hawaii until June 30, [2011,] 2015, the Hawaii tourism authority, and the department of education until June 30, [2011,] 2015, the comptroller shall have complete supervision of all accounts. The comptroller shall preaudit all proposed payments of \$10,000 or more to determine the propriety of expenditures and compliance with executive orders and rules that may be in effect. When necessary, the comptroller shall withhold approval of any payment. Whenever approval is withheld, the department or agency concerned shall be promptly notified. With respect to the University of Hawaii, the Hawaii tourism authority, and the department of education, the comptroller shall issue warrants for the release of funds for the operating costs of the university, the Hawaii tourism authority, or the department of education, as applicable, in amounts and at times mutually agreed upon by the governor or director of finance and the university, the Hawaii tourism authority, or department of education, as applicable; provided[-] that:

- (1) The amounts released shall not exceed the allotment ceilings for the respective funding sources of the university's or the department of education's appropriations established by the governor for an allotment period pursuant to section 37-34, or in the case of the Hawaii tourism authority, revenues received by the convention center enterprise special fund and the tourism special fund pursuant to section 237D-6.5; and
- (2) The comptroller may issue warrants as an advance from the state treasury to the University of Hawaii, the Hawaii tourism authority, and the department of education to establish a checking account and provide working capital in amounts and at times mutually agreed upon by the governor or director of finance and the University of Hawaii, the Hawaii tourism authority, and the department of education.

The University of Hawaii and the department of education shall preaudit all proposed payments of \$10,000 or more and [the] shall preaudit samples of the population of proposed payments of less than \$10,000; provided that the sample size comprises at least five per cent of the population, and is of a size that the chief financial officers of the University of Hawaii and the department of education, as applicable, determine appropriate, to determine the propriety of expenditures and compliance with applicable laws, executive orders, and rules. The Hawaii tourism authority [and the department of education] shall preaudit all proposed payments to determine the propriety of expenditures and compliance with applicable laws, executive orders, and rules as may be in effect. The University of Hawaii, the Hawaii tourism authority, and the department of education shall make disbursements for operating expenses from the amounts released by the comptroller and maintain records and documents necessary to support those disbursements at times mutually agreed upon by the university president, the executive director of the Hawaii tourism authority, or the superintendent of education, as applicable, and the comptroller; provided that when requested by the university, the Hawaii tourism authority, or department of education, the comptroller shall make all disbursements for the university, the Hawaii tourism authority, or department of education, as applicable, subject to available allotment. Funds released pursuant to this section shall be deposited by the univer-

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sity, the Hawaii tourism authority, or department of education, as applicable, in accordance with the provisions applicable to the director of finance by chapter 38. Except for moneys deposited by the Hawaii tourism authority in the convention center enterprise special fund pursuant to section 201B-8, and in the tourism special fund pursuant to section 201B-11, any interest earned on the deposit of funds released pursuant to this section shall be deposited in the state treasury at the end of each fiscal year.”

PART IV

SECTION 6. Any act passed by the legislature during this regular session of 2010, whether enacted before or after the effective date of this Act, shall be amended to conform to the provisions of this Act relating to:

- (1) The repeal date of the department of education's exemption from the comptroller's supervision of the department of education's accounts;
- (2) The requirement that the department of education shall preaudit all proposed payments of \$10,000 or more; and
- (3) The requirement that the University of Hawaii and department of education shall preaudit samples of proposed payments of less than \$10,000.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act, upon its approval, shall take effect retroactive to April 30, 2010; provided that:

- (1) Part II shall only take effect upon the repeal and reenactment of section 40-1, Hawaii Revised Statutes, on June 30, 2010, pursuant to Act 58, Session Laws of Hawaii 2004, as amended; and
- (2) Part III shall only take effect upon the repeal of paragraph (2)(B) of section 14 of Act 58, Session Laws of Hawaii 2004, as amended, pursuant to an Act of the 2010 legislature; or in the absence of that repeal, upon the extension of the June 30, 2010, repeal date in paragraph (2) of section 14 of Act 58, Session Laws of Hawaii 2004, as amended, pursuant to an Act of the 2010 legislature.

(Approved June 2, 2010.)

Notes

1. Amended section is based on section as it read on June 30, 1986, prior to amendment made by Act 321, Session Laws of Hawaii 1986.
2. Prior to amendment “pre-audit” appeared here.
3. Prior to amendment a comma appeared here.
4. Prior to amendment “disbursements” appeared here.