

**ACT 160**

S.B. NO. 1361

A Bill for an Act Relating to Budgeting.

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

SECTION 1. The purpose of this Act is to address the executive and judiciary budgets.

More specifically, this Act:

- (1) Requires the executive budget and related documents to identify the position ceiling for each budget program;
- (2) Requires the position ceiling to separately identify the maximum numbers of permanent and temporary full-time equivalent positions authorized; and
- (3) Prohibits an agency from exceeding the position ceiling, with certain exceptions.

The legislature intends that this Act also apply to the judiciary budget by operation of section 601-2, Hawaii Revised Statutes.

This Act applies to budget documents submitted to the legislature after July 1, 2016. The legislature has instituted the delay so that the information technology system for the budget may be upgraded to accommodate the implementation of this Act.

SECTION 2. Chapter 37, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

**“§37- Position ceiling.** Whenever this part requires a position ceiling to be specified:

- (1) The number of permanent positions and temporary positions shall be separately identified; and
- (2) The position ceiling shall be expressed in units or fractions of full-time equivalent positions.”

SECTION 3. Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§76- Special, research, or demonstration project positions.** Notwithstanding any law to the contrary, with the approval of the governor, the head of a department may establish and abolish any subordinate position for an employee engaged in a special, research, or demonstration project that is approved by the governor, subject to the limitations of available appropriations.”

SECTION 4. Section 37-62, Hawaii Revised Statutes, is amended by adding seven new definitions to be appropriately inserted and to read as follows:

“Casual hire position” means an hourly-paid temporary position, the services of which are required intermittently.

“Full-time equivalent position” means a position, the occupant of which is employed for a normal work week of at least forty hours or its equivalent.

“Permanent position” means a position, the existence of which has no time limitation.

“Position” means a specific job, whether occupied or vacant, consisting of all duties and responsibilities assigned or delegated by competent authority, requiring the full or part-time employment of one person.

“Position ceiling” means the maximum number of permanent and temporary full-time equivalent positions that an expending agency is authorized for a particular program.

“Temporary position” means a position, the existence of which has a time limitation, or a position that is not otherwise a permanent position.

“Vicing position” means a temporary position created to back-fill for an incumbent who is on an extended period of authorized leave of absence.”

SECTION 5. Section 37-69, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) The financial plan for the ensuing six fiscal years shall more specifically include:

- (1) Economic data for the State and the counties of the following kinds:
  - (A) Population: Including historical, current, and projected population count; population distribution by age and sex; estimated increases and decreases, including increases and decreases by immigration;
  - (B) Employment: Including magnitude of labor force by age and sex; labor force participation rates; employment by age and sex; industry and occupational surpluses and shortages; effects of government programs on employment rate;
  - (C) Income: Including per capita and per family income; disposable income; income distribution;
  - (D) Wages and prices: Including wages by industry and occupational groups; prices for government procurement items; construction costs; cost of living index; price indices for components of personal consumption;
  - (E) Industry and business trends; and
  - (F) Effects of national economic and financial policies and conditions;
- (2) Brief statements disclosing the basis upon which the revenue estimates in the plan were made, including for each specific tax and nontax revenue source:
  - (A) The previous projections for the last completed fiscal year and the fiscal year in progress;
  - (B) The variance between the projections and the actual or revised estimate, and the reasons for the variances;
  - (C) Tax or source base and rates;
  - (D) Yield projections of existing revenue sources and existing taxes at authorized rates;
  - (E) Assumptions made and methodology used in projections;
  - (F) Changes recommended; and
  - (G) Projected yields if changes are adopted, etc.;
- (3) At the lowest level on the state program structure, for each program:
  - (A) The total actual program cost for the last completed fiscal year, the estimated cost for the fiscal year in progress, and the estimated cost for each of the next six fiscal years; research and development, operating, and capital costs shall be included and the means of financing shall be identified. The ~~[number of personnel positions]~~ position ceiling and all lease payments shall be shown for the program, identified by their means of financing;
  - (B) The program size indicators; the actual size attained in the last completed fiscal year, the estimated size for the fiscal year in progress, and the estimated size for each of the next six fiscal years; and
  - (C) The effectiveness measures; the actual level of effectiveness attained in the last completed fiscal year, the estimated level of effectiveness for the fiscal year in progress, and the estimated level for each of the next six fiscal years;
- (4) Appropriate displays of paragraph (3)(A) and (C), at every level of the state program structure above the lowest level, by the major

groupings of programs encompassed within the level. The displays of ~~[[paragraph]]~~ (3)(A) shall appropriately identify the means of financing and ~~[the number of positions]~~ position ceiling included in the level;

- (5) Financial summaries displaying the State's financial condition, actual for the last completed fiscal year, and estimated for the fiscal year in progress and each of the next six fiscal years, including:
  - (A) A display of the programmed, total state expenditures, by cost categories, the total state resources anticipated from existing tax and nontax sources at existing rates, by resource categories, including the fund balance or deficit at the beginning of the fiscal year and bond receipts, and the resulting fund balance or deficit at the close of each fiscal year. Lease payments in each cost category shall be stated separately; and
  - (B) The changes proposed to the existing tax and nontax rates, sources or structure, and the estimated increases or reductions in revenues, the estimated cumulative increases or reductions, and the estimated fund balance or deficit in each of the next six fiscal years as a result of such proposed changes. Proposals for changes in the existing tax and nontax rates, sources or structure shall be made in every case where the proposed, total state expenditures exceed the total resources anticipated from existing tax and nontax sources at existing rates.

~~[Such]~~ The financial summaries shall be prepared for the total state expenditures and resources and for the general fund and special fund portions thereof;
- (6) A summary of the balance of each special fund, actual for the last completed fiscal year and estimated for the fiscal year in progress and estimated for each of the next six fiscal years;
- (7) A summary of the State's total bond fund required to carry out the recommended programs and the kinds of bonds and amounts thereof through which the requirements were met in the last completed fiscal year, are to be met in the fiscal year in progress, and are proposed to be met in each of the next six fiscal years. The summary shall detail, for each fiscal year:
  - (A) Of the total bond fund requirements, the amount, by cost categories, requiring new bond issuance authorization and the kinds and amounts of bonds planned for issuance under ~~[such]~~ the new authorizations;
  - (B) By bond categories, the total, cumulative balance of bonds authorized in prior years but unissued and the amount thereof proposed to be issued; and
  - (C) A recapitulation of the total bonds to be issued, including both new authorizations and prior authorizations, by bond categories;
- (8) Separately for general fund tax revenues, special fund tax revenues, general fund nontax revenues, and special fund nontax revenues:
  - (A) By kinds of taxes or sources, the amount of revenue from existing, authorized taxes or sources at existing rates received in the last completed fiscal year and estimated to be received in the fiscal year in progress and in each of the next six fiscal years;
  - (B) A summary of the proposed changes in the existing taxes or sources or rates, and the estimated increases or reductions in

- revenues in each of the next six fiscal years resulting from such changes; and
- (C) The total estimated revenues with and without the proposed changes in each of the next six fiscal years; and
- (9) A summary of the State's total payments due under financing agreements required to carry out the recommended programs and the kinds of financing agreements and amounts thereof through which the requirements were met in the last completed fiscal year, are to be met in the fiscal year in progress, and are proposed to be met in each of the next six fiscal years. The summary shall detail, for each fiscal year:
- (A) Of the total financing agreement requirements, the amount, by cost categories, requiring new financing agreement authorizations and the kinds and amounts of financing agreements planned for execution and delivery under ~~[such]~~ the new authorizations;
- (B) By cost category, the cumulative balance of financing agreements authorized in prior years but not executed and delivered and the amount proposed to be executed and delivered; and
- (C) A recapitulation of the total financing agreements to be executed and delivered, including both new authorizations and prior authorizations, by cost categories.
- (d) The program plans for the ensuing six fiscal years shall more specifically include:
- (1) At the lowest level on the state program structure, for each program:
- (A) A statement of its objectives;
- (B) Measures by which the effectiveness in attaining the objectives is to be assessed;
- (C) The level of effectiveness planned for each of the ensuing six fiscal years;
- (D) A brief description of the activities encompassed;
- (E) The program size indicators;
- (F) The program size planned for each of the next six fiscal years;
- (G) A narrative explanation of the plans for the program. It shall contain, and in general be limited to, the following:
- (i) A description of the kinds of activities carried out or unusual technologies employed;
- (ii) A statement of key policies pursued;
- (iii) Identification of important program or organizational relationships involved;
- (iv) A description of major external trends affecting the program;
- (v) A discussion of significant discrepancies between previously planned cost, effectiveness, and program size levels and those actually achieved;
- (vi) Comments on, and an interpretation of, cost, effectiveness, and program size data over the upcoming budget period, with special attention devoted to changes from the current budget period;
- (vii) Comments on, and an interpretation of, cost, effectiveness, and program size data over the four years of the planning period and how they relate to the corresponding data for the budget period; and

- (viii) A summary of the special analytic study, program evaluation, or other analytic report supporting a substantial change in the program where such a major program change recommendation has been made;
- (H) The full cost implications of the recommended programs, by cost categories and cost elements, actually experienced in the last completed fiscal year, estimated for the fiscal year in progress, and estimated for each of the next six fiscal years. The means of financing shall be identified for each cost category. The personal services cost element and the lease payments cost element shall be shown separately; the cost elements of other current expenses, equipment, and motor vehicles may be combined. The ~~number of positions included in~~ position ceiling for the program shall be appropriately identified by means of financing;
- (I) A recapitulation of subparagraph (H) for the last completed fiscal year, the fiscal year in progress and each of the next six fiscal years, by means of financing grouped under each cost category. The ~~number of positions included in~~ position ceiling for any program shall be appropriately identified;
- (J) An identification of the revenues generated in the last completed fiscal year and estimated to be generated in the fiscal year in progress and in each of the next six fiscal years, and the fund into which ~~such~~ the revenues are deposited;
- (K) Details of implementation of each capital improvement project included in the total program cost, including:
  - (i) A description of the project, location, and scope;
  - (ii) The initially estimated, currently estimated, and final cost of the project, by investment cost elements and by means of financing;
  - (iii) The amounts previously appropriated by the legislature for the project, by cost elements and by means of financing specified in the acts appropriating the sums, and an identification of the acts so appropriating;
  - (iv) The costs incurred in the last completed fiscal year and the estimated costs to be incurred in the fiscal year in progress and in each of the next six fiscal years, by cost elements and by means of financing; and
  - (v) A commencement and completion schedule, by month and year, of the various phases of the capital improvement project (i.e., land acquisition, design, construction, and occupancy) as originally intended, as currently estimated, and as actually experienced; and
- (L) A crosswalk of the program expenditures, by cost categories and cost elements between the program and expending agencies for the next two fiscal years. The means of financing ~~and the number of positions included in~~ for the program costs to be expended by, and position ceiling for each agency shall be specified; and
- (2) Appropriate displays at every level of the state program structure above the lowest level. The displays shall include:
  - (A) A listing of all major groupings of programs included within the level, together with the objectives, measures of effectiveness, and planned levels of effectiveness for each of the ensu-

- ing six fiscal years for each ~~[such]~~ of the major groupings of programs; and
- (B) A summary of the total cost of each cost category by the major groupings of programs encompassed within the level, actual for the last completed fiscal year and estimated for the fiscal year in progress and for each of the next six fiscal years.”

SECTION 6. Section 37-71, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The display of financial requirements for the ensuing two fiscal years shall more specifically include:

- (1) At the lowest level on the state program structure, for each program:
- (A) The total recommended expenditures, including research and development, capital and operating costs, by cost categories and cost elements for the ensuing biennium; the planned allocation of the total biennial request, by cost categories, and cost elements, between the two fiscal years of the biennium. The means of financing and ~~[the number of positions]~~ position ceiling included in any cost category amount shall be appropriately identified;
- (B) A summary showing means of financing the total recommended expenditures, those amounts requiring and those amounts not requiring legislative appropriation or authorization for spending in each fiscal year of the biennium;
- (C) A crosswalk of the total proposed biennial expenditures between the program and expending agencies. The means of financing ~~[the number of positions]~~, position ceiling, and the lease payments included in any cost amount, and the net amount requiring appropriation or authorization shall be appropriately identified for each expending agency; and
- (D) The proposed changes in the levels of expenditures, by cost categories, between the biennium in progress and the ensuing biennium, together with a brief explanation of the major reasons for each change. The reasons shall include, as appropriate, the following:
- (i) Salary adjustments to existing positions of personnel;
- (ii) The addition or deletion of positions[;] to or from the position ceiling;
- (iii) Changes in the number of persons being served or to be served by the program;
- (iv) Changes in the program implementation schedule;
- (v) Changes in the actual or planned level of program effectiveness;
- (vi) Increases due to the establishment of a program not previously included in the State’s program structure;
- (vii) Decreases due to the phasing out of a program previously included in the State’s program structure; and
- (viii) Changes in the purchase price of goods or services;

As appropriate, references to the program and financial plan shall be noted for an explanation of the changes. Notwithstanding the provisions of subsection (b)(5), the proposed changes in the levels of expenditures may be shown to the nearest thousand dollars;

- (2) Appropriate summaries of paragraph (1)(A) and (C) immediately above at every level of the state program structure above the lowest

level. [Such] The summaries shall be by the major groupings of programs encompassed within the level. The summaries of paragraph (1)(A) shall identify the means of financing ~~[and the number of positions]~~, position ceiling, and ~~[the]~~ lease payments included in any cost category amount; and

- (3) A summary listing of all capital improvement projects included in the proposed capital investment costs for the ensuing biennium. The listing shall be by programs at the lowest level of the state program structure and shall show for each project, by investment cost elements:
- (A) The cost of the project;
  - (B) The amount of funds previously appropriated and authorized by the legislature; and
  - (C) The amount of new appropriations and authorizations proposed in each of the two fiscal years of the ensuing biennium and in each of the succeeding four years. The amount of the new appropriations and authorizations proposed shall constitute the proposed new requests for the project in each of the fiscal bienniums.

In every instance, the means of financing shall be noted.”

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]~~ a 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]~~ a 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, the requirements of chapter 37D, 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) Except with respect to appropriations to fund financing agreements under chapter 37D, the University of Hawaii ~~[shall have the flexibility to]~~ may transfer appropriated funds and positions for the operating cost category among programs, among cost elements in a program, and between quarters, as applicable; except with respect to appropriations to fund financing agreements under chapter 37D, the department of education ~~[shall have the flexibility to]~~ may transfer appropriated funds and positions for the operating cost category among programs and among cost elements in a program, and between quarters, as applicable; and the Hawaii health systems corporation and its regional system boards ~~[shall have the flexibility to]~~ may transfer special fund appropriations among regional system hospital facilities as applicable and as mutually agreed to by the corporation and the respective regional system board; provided that the Hawaii health systems corporation and the regional system boards shall maintain the integrity and services of each individual regional system and shall not transfer appropriations out of any regional system that would result in a reduction of services offered by the regional system, with due regard for statutory requirements, changing conditions, the needs of the programs, and the effective utilization of resources; and
  - (3) The university and the department of education 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) Effective July 1, 2017, no funds shall be expended to fill a permanent or temporary position for the lowest level of a program if the filling of that position causes the position ceiling for that level of the program to be exceeded; provided that this subsection shall not apply to a:
  - (1) Position established by the University of Hawaii or the Hawaii health systems corporation;
  - (2) Position that is entirely federally funded;
  - (3) Position necessary for compliance, without undue delay, with a court order or decree if the director of human resources development determines that recruitment through normal civil service procedures would result in delay or noncompliance;

- (4) Position approved by the governor for a special, research, or demonstration project of an agency;
- (5) Position approved by the governor to perform an emergency management function under the department of defense pursuant to the authority of section 127A-12(b)(9);
- (6) Casual hire position;
- (7) Vicing position;
- (8) Position established by an agency pursuant to express statutory authorization to establish the position; and
- (9) Position established by an agency for a program or project funded by an appropriation in an act other than a general or supplemental appropriations act.”

SECTION 8. Section 37-75, Hawaii Revised Statutes, is amended to read as follows:

“§37-75 **Variance report.** Not fewer than thirty days prior to the convening of each regular session of the legislature, the governor shall submit to the legislature and to each member thereof a report on program performance for the last completed fiscal year and the fiscal year in progress. In format, the report generally shall follow the fiscal requirements portion of the executive budget or budgets. The report shall include:

- (1) At the lowest level of the program structure, for each program contained in the budget finally approved by the legislature for the last completed fiscal year and the fiscal year in progress:
  - (A) A comparison, by the operating and research and development cost categories, of the budgeted expenditures and the actual expenditures for the last completed fiscal year and the budgeted expenditures and the estimated expenditures for the fiscal year in progress;
  - (B) A comparison, for the operating and research and development cost categories, of the budgeted expenditures and ~~[positions authorized]~~ position ceiling and the actual expenditures and positions filled in the last completed fiscal year and a comparison of the budgeted expenditures and the ~~[number of positions authorized]~~ position ceiling for the fiscal year in progress and the actual expenditures and number of positions filled in the first three months of the fiscal year in progress and the estimated expenditures and number of positions expected to be filled in the remaining months of the fiscal year in progress;
  - (C) The program size indicators and a comparison of the program size anticipated and the size actually realized in the last completed fiscal year and the program size anticipated and the size estimated for the fiscal year in progress;
  - (D) The effectiveness measures and a comparison of the level of effectiveness anticipated and the level actually attained in the last completed fiscal year and the level of effectiveness anticipated and the level estimated for the fiscal year in progress; and
  - (E) A narrative explanation of the significant differences for the last completed fiscal year in each of the comparisons made in subparagraphs (A), (B), (C), and (D), including an explanation of the basis upon which the original estimates were made and the reasons why the estimates proved accurate or inaccurate,

and a statement of what the actual experience portends for the future of the program in terms of costs, size, and effectiveness; provided that expenditure amounts in the comparisons shall be shown to the nearest thousand dollars;

- (2) Appropriate summaries at each level of the state program structure for each major grouping of programs encompassed therein, showing:
  - (A) A comparison of the total budgeted expenditure and the total actual expenditure for the last completed fiscal year and the total budgeted expenditure and the total estimated expenditure for the fiscal year in progress; provided that the expenditure amounts shall be shown to the nearest thousand dollars;
  - (B) The effectiveness measures and a comparison of the level of effectiveness anticipated and the level actually attained in the last completed fiscal year and the level of effectiveness anticipated and the level estimated for the fiscal year in progress; and
  - (C) A narrative explanation summarizing the major reasons for the differences in the comparisons made for the last completed fiscal year in subparagraphs (A) and (B); and
- (3) A narrative explanation of the significant variations in capital improvement costs; provided that capital improvement project variances shall be referenced to the six-year program and financial plan, which shall contain the information specified in section 37-69(d)(1)(K)."

SECTION 9. Section 601-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The chief justice shall possess the following powers, subject to such rules as may be adopted by the supreme court:

- (1) To assign circuit judges from one circuit to another;
- (2) In a circuit court with more than one judge, (A) to make assignments of calendars among the circuit judges for such period as the chief justice may determine and, as deemed advisable from time to time, to change assignments of calendars or portions thereof (but not individual cases) from one judge to another, and (B) to appoint one of the judges, for ~~such~~ a period as the chief justice may determine, as the administrative judge to manage the business of the court, subject to the rules of the supreme court and the direction of the chief justice;
- (3) To prescribe for all of the courts a uniform system of keeping and periodically reporting statistics of their business;
- (4) To procure from all of the courts estimates for their appropriations; with the cooperation of the representatives of the court concerned to review and revise them as the chief justice deems necessary for equitable provisions for the various courts according to their needs and to present the estimates, as reviewed and revised by the chief justice, to the legislature as collectively constituting a unified budget for all of the courts;
- (5) To exercise exclusive authority over the preparation, explanation, and administration of the judiciary budget, programs, plans, and expenditures, including without limitation policies and practices of financial administration and the establishment of guidelines as to permissible expenditures, provided that all expenditures of the judiciary shall be in conformance with program appropriations and

provisions of the legislature, and all powers of administration over judiciary personnel that are specified in Title 7; and

- (6) To do all other acts ~~[which]~~ that may be necessary or appropriate for the administration of the judiciary.

<sup>1</sup>The budget, supplemental budget, six-year program and financial plan, and the variance report of the judiciary shall be submitted by the chief justice to the legislature in accordance with the schedule of submission specified for the governor in chapter 37 and shall contain the program information prescribed in that chapter~~[-]~~ as applicable to the judiciary. By November 1 of each year preceding a legislative session in which a budget is to be submitted, the chief justice shall provide written notification to the governor of the proposed total expenditures, by cost categories and sources of funding, and estimated revenues of the judiciary for each fiscal year of the next fiscal biennium~~[-]~~ or fiscal year, as applicable.<sup>2</sup>

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>2</sup>

SECTION 11. This Act shall take effect on July 1, 2016, and shall apply to the six-year program and financial plans, budgets, supplemental budgets, and variance reports submitted to the legislature, beginning with the regular session of 2017; provided that section 3 shall take effect upon approval.

(Approved June 26, 2015.)

#### Notes

1. Prior to amendment "(c)" appeared here.
2. Edited pursuant to HRS §23G-16.5.