
A BILL FOR AN ACT

RELATING TO COUNTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§46- Indemnification of county agencies. (a) To
5 receive county aid, assistance, support, benefits, services, and
6 interests in or rights to use county property, a state agency
7 may agree in writing to an indemnity provision by which the
8 State agrees to indemnify, defend, and hold harmless a county
9 agency, its officers, agents, and employees when:

10 (1) A county ordinance, rules, or regulations expressly or
11 by clear implication require the indemnity provision;

12 (2) The governor approves the State's proposed indemnity
13 provision;

14 (3) The comptroller, pursuant to section 41D-8.5, has
15 obtained an insurance policy or policies in an amount
16 sufficient to cover the liability of the State that
17 reasonably may be anticipated to arise under the
18 indemnity provision or has determined that it is not



1 in the best interest of the State to obtain insurance;

2 and

3 (4) The State's liability under the indemnity provision

4 will be expressly limited to the amount of, and will

5 be defrayed solely by, such insurance.

6 (b) An indemnity provision not in strict compliance with

7 this section shall not give rise to a claim against the State

8 under chapter 661 or otherwise waive the State's sovereign

9 immunity."

10 SECTION 2. Chapter 663, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§663- County agency; limited liability. No county
14 agency, its officers, agents, and employees providing aid,
15 assistance, support, benefits, services, and interests in or
16 rights to use county property to a state agency shall be liable
17 for any civil damages resulting from the acts or omissions of
18 the county agency's officers, agents, or employees occurring
19 during the course of providing aid, assistance, support,
20 benefits, services, and interests in or rights to use county
21 property to the state agency, except for damages that may result



1 from the gross negligence or wanton acts or omissions of the
2 agency's officers, agents, or employees."

3 SECTION 3. Section 41D-8.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§41D-8.5 Insurance for indemnification.** The comptroller
6 may:

- 7 (1) Obtain sufficient loss insurance to cover the
8 liability of the State that may arise from indemnity
9 provisions agreed to pursuant to section 29-15.5;
10 ~~[and]~~
- 11 (2) Obtain sufficient loss insurance to indemnify, defend,
12 and hold harmless a county providing assistance,
13 services, rights, or permission to use county property
14 to a state agency under an indemnity agreement
15 provision pursuant to section 46- ; and
- 16 (3) Obtain appropriate and sufficient reinsurance to cover
17 the liability of a captive insurance company
18 established pursuant to section 41D-2."

19 SECTION 4. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun, before its effective date.



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on January 1, 2050.



Report Title:

State Indemnification; County Assistance

Description:

Authorizes state agencies to indemnify county agencies and statutorily limits the civil liability of a county agency when the state agency receives from the county agency aid, assistance, support, benefits, service, or interest in or rights to use county property under certain circumstances. Authorizes the Comptroller to obtain loss insurance to indemnify a county.

