

JAN 25 2006

A BILL FOR AN ACT

RELATING TO THE BUDGET.

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

1 SECTION 1. Chapter 37, Hawaii Revised Statutes, is amended
2 by adding two new sections to part II be appropriately
3 designated and to read as follows:

4 "§37- Executive budget decisions; guidelines. All
5 decisions of the governor and the director of finance in the
6 exercise of executive authority under sections 37-32 to 37-37
7 and 37-74 shall be in accordance with the intent and policy of
8 the allotment system under section 37-31.

9 §37- Allotments of less than full amount of
10 appropriations. (a) No later than twenty days after the end of
11 each quarter, the director of finance shall submit to the
12 legislature a written report that lists each instance in which
13 the director has withheld an allotment of appropriated funds
14 pursuant to:

15 (1) Section 37-36 because of a revenue shortfall or
16 anticipated imminent revenue shortfall; or



1 (2) Section 37-37 because of a determination that probable
2 receipts for any appropriation will be less than was
3 anticipated.

4 (b) The director of finance shall provide the council of
5 revenues a copy of the report at the time the director submits
6 the report to the legislature."

7 SECTION 2. Section 37-31, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§37-31 Intent and policy.** It is declared to be the
10 policy and intent of the legislature that the total
11 appropriations made by it, or the total of any budget approved
12 by it, for any department or establishment, shall be deemed to
13 be the maximum amount authorized to meet the requirements of the
14 department or establishment for the period of the appropriation,
15 excepting as may otherwise be provided by law, and that the
16 governor and the director of finance should be given the powers
17 granted by sections 37-32 to 37-41 in order that savings may be
18 effected by careful supervision throughout each appropriation
19 period with due regard to changing conditions; and by promoting
20 more economic and efficient management of state departments and
21 establishments.



1 While the allotment system authorizes the governor to avoid
2 wasteful expenditures in circumstances where the social purposes
3 of the appropriation are not compromised or to reduce
4 expenditures where unanticipated revenue shortfalls occur, it
5 does not permit the executive branch to prioritize authorized
6 expenditures and reallocate resources, for to do so would be a
7 usurpation of the legislature's appropriation powers. The
8 governor has no express or inherent power based on the
9 governor's view of sound fiscal policy to impound funds which
10 have been appropriated by the legislature. Impounding
11 appropriated funds is inconsistent with a constitutional form of
12 government in which governmental powers are distributed among
13 three co-ordinate and co-equal branches."

14 SECTION 3. Section 37-36, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§37-36 Modification.** (a) The director of finance may
17 modify or amend any previous allotment upon notice to the
18 department or establishment concerned; provided that:

19 (1) For the University of Hawaii, the director of finance
20 may modify or amend any previous allotment only upon
21 application of or notice to the university, and upon



1 public declaration, which shall be made ten days prior
2 to the modification or amendment taking effect;

3 (2) The modification or amendment shall be made only to
4 avoid an illegal result or in reasonable anticipation
5 of [a] an imminent revenue shortfall;

6 (3) No deficit or undue reduction of funds to meet future
7 needs of the department or establishment will result
8 from the modification or amendment;

9 (4) No modification or amendment shall reduce an allotment
10 below the amount required to meet valid obligations or
11 commitments previously incurred against the allotted
12 funds.

13 (b) Notwithstanding subsection (a), the total amount of
14 allotment reductions made in reasonable anticipation of an
15 imminent revenue shortfall shall not exceed an amount equal to
16 the anticipated shortfall. Funds withheld pursuant to an
17 allotment reduction shall be restored as soon as there is no
18 longer a reasonable anticipation of an imminent revenue
19 shortfall.

20 [~~(b)~~] (c) Prior to the implementation of any modification
21 in allotment proposed by the director of finance pursuant to
22 subsection (a), in which the sum of the modifications exceed 2.5



1 per cent of the total general fund appropriation made by the
 2 legislature in any fiscal year, the director shall notify the
 3 president of the senate, the speaker of the house of
 4 representatives, and the chairpersons of the senate committee on
 5 ways and means and the house of representatives committee on
 6 finance, respectively, of the director's intent.

7 (d) As used in this section, "reasonable anticipation of
 8 an imminent revenue shortfall" means an anticipation based on
 9 the best information available to the director of finance and
 10 the legislature, including the revenue estimates of the council
 11 on revenues pursuant to section 37-111."

12 SECTION 4. Section 37-37, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 **"§37-37 Reduction.** (a) Except as provided in subsection
 15 (b), when the director of finance [~~determines~~] makes a
 16 reasonable determination at any time that the probable receipts
 17 from taxes or any other sources for any appropriation will be
 18 less than was anticipated, and that consequently the amount
 19 available for the remainder of the term of the appropriation or
 20 for any allotment period will be less than the amount estimated
 21 or allotted therefor, the director shall, with the approval of
 22 the governor and after notice to the department or establishment



1 concerned, reduce the amount allotted or to be allotted;
2 provided that no reduction reduces any allotted amount below the
3 amount required to meet valid obligations or commitments
4 previously incurred against the allotted funds.

5 (b) For the University of Hawaii, when the director of
6 finance [~~determines~~] makes a reasonable determination at any
7 time that the probable receipts from taxes or any other sources
8 for any appropriation will be less than was anticipated, and
9 that consequently the amount available for the remainder of the
10 term of the appropriation or for any allotment period will be
11 less than the amount estimated or allotted therefor, the
12 director shall advise the governor of the situation, and the
13 governor shall redetermine the allotment ceiling for the
14 affected source or sources of funding pursuant to section 37-34,
15 and shall advise the university and make a public declaration
16 ten days prior to the effective date of the redetermination.
17 The university, not more than twenty days after the governor's
18 notification, shall submit revised estimates consistent with the
19 governor's redetermination to the director of finance.
20 Otherwise, the director of finance shall modify, amend, or
21 reduce any allotment of the university to comply with the
22 governor's redetermination; provided that no reduction shall



1 reduce any allotted amount below the amount required to meet
2 valid obligations or commitments previously incurred against the
3 allotted funds.

4 (c) Notwithstanding subsections (a) and (b), when the
5 director of finance reduces an allotment made as a result of a
6 reasonable determination that probable receipts from taxes or
7 other sources for any appropriation will be less than
8 anticipated and less than the amount estimated or allotted
9 therefor, the total amount of the allotment reductions shall not
10 exceed an amount equal to the anticipated revenue deficiency.
11 Funds withheld pursuant to an allotment reduction shall be
12 restored as soon as there can no longer be a reasonable
13 determination that receipts are insufficient for an
14 appropriation.

15 ~~(e)~~ (d) Prior to the implementation of any reduction in
16 allotment proposed by the director of finance or the governor
17 pursuant to subsection (a) or (b), in which the sum of the
18 reductions exceed 2.5 per cent of the total general fund
19 appropriation made by the legislature in any fiscal year, the
20 director of finance shall notify the president of the senate,
21 the speaker of the house of representatives, and the
22 chairpersons of the senate committee on ways and means and the

1 house of representatives committee on finance, respectively, of
2 the director's intent."

3 SECTION 5. Section 37-74, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§37-74 Program execution.** (a) Except as limited by
6 policy decisions of the governor, appropriations by the
7 legislature, and other provisions of law, the several agencies
8 responsible for administering state programs shall administer
9 their program assignments and shall be responsible for their
10 proper management.

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



1 requirements, to the department of budget and finance on such
2 date as the department may prescribe.

3 (c) The department of budget and finance shall:

4 (1) Review each operations plan to determine:

5 (A) That it is consistent with the policy decisions
6 of the governor and appropriations by the
7 legislature;

8 (B) That it reflects proper planning and efficient
9 management methods; and

10 (C) That appropriations have been made for the
11 planned purpose and will not be exhausted before
12 the end of the fiscal year;

13 provided that the department of budget and finance
14 shall review the operations plan submitted by the
15 University of Hawaii solely for consistency with the
16 allotment ceilings established by the governor under
17 section 37-34, appropriations by the legislature, the
18 requirements of chapter 37D, and the status of
19 revenues to support operations plans for all state
20 programs;

21 (2) Approve the operations plan if satisfied that it meets
22 the requirements under paragraph (1). Otherwise, the



1 department of budget and finance shall require
2 revision of the operations plan in whole or in part;
3 and

4 (3) Modify or withhold the planned expenditures at any
5 time during the appropriation period if the department
6 of budget and finance [~~finds~~] makes a reasonable
7 determination that the expenditures are greater than
8 those necessary to execute the programs at the level
9 authorized by the governor and the legislature, or
10 that state receipts and surpluses will be insufficient
11 to meet the authorized expenditure levels; provided
12 that the planned expenditures for the University of
13 Hawaii may be modified or withheld only in accordance
14 with sections 37-36 and 37-37.

15 (d) Notwithstanding subsection (c), when the director of
16 finance modifies or withholds an expenditure as a result of a
17 reasonable determination that state receipts and surplus will be
18 insufficient to meet the authorized expenditure levels, the
19 total amount of the expenditures modified or withheld shall not
20 exceed an amount equal to the anticipated revenue deficiency.
21 Expenditures modified or withheld shall be restored as soon as



1 the director can no longer make a reasonable determination that
2 state receipts and surpluses are insufficient.

3 [~~(d)~~] (e) No appropriation transfers or changes between
4 programs or agencies shall be made without legislative
5 authorization; provided that:

6 (1) Authorized transfers or changes, when made, shall be
7 reported to the legislature;

8 (2) Except with respect to appropriations to fund
9 financing agreements under chapter 37D, the University
10 of Hawaii shall have the flexibility to transfer
11 appropriated funds and positions for the operating
12 cost category among programs, among cost elements in a
13 program, and between quarters, as applicable; except
14 with respect to appropriations to fund financing
15 agreements under chapter 37D, the department of
16 education shall have the flexibility to transfer
17 appropriated funds and positions for the operating
18 cost category among programs and among cost elements
19 in a program, and between quarters, as applicable; and
20 the Hawaii health systems corporation shall have the
21 flexibility to transfer special fund appropriations
22 among community hospitals facilities as applicable;



1 provided that the Hawaii health systems corporation
 2 shall maintain the integrity and services of each
 3 individual facility and shall not transfer
 4 appropriations out of any facility that would result
 5 in a reduction of services offered by the facility,
 6 with due regard for statutory requirements, changing
 7 conditions, the needs of the programs, and the
 8 effective utilization of resources; and

9 (3) The university and the department of education shall
 10 account for each transfer implemented under this
 11 subsection in quarterly reports to the governor and
 12 annual reports at the end of each fiscal year to the
 13 legislature and the governor, which shall be prepared
 14 in the form and manner prescribed by the governor and
 15 shall include information on the sources and uses of
 16 the transfer."

17 SECTION 6. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 7. This Act shall take effect upon its approval.

20 INTRODUCED BY:



SB. NO. 3141

Report Title:

State Budget; Allotment System

Description:

Clarifies the respective roles of the executive and legislative branches in the allotment system.

