

JAN 20 2010

A BILL FOR AN ACT

RELATING TO INDEMNIFICATION OF COUNTY AGENCIES.

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

1 SECTION 1. The legislature finds that public schools
2 frequently use county parks and other facilities for school
3 purposes and functions, such as physical education classes,
4 athletic events, and graduation events. The legislature also
5 finds that the current procedure for the department of education
6 to obtain approval from the governor to agree to indemnify a
7 county when a public school uses a county facility for a school
8 purpose is unnecessarily burdensome, especially for school
9 purposes and functions that occur repeatedly throughout the
10 school year.

11 The purpose of this Act is to facilitate the process by
12 which the department of education obtains approval for the State
13 to indemnify, defend, and hold harmless a county agency, its
14 officers, agents, and employees for public school purposes and
15 functions on county facilities.

16 SECTION 2. Section 46-71.5, Hawaii Revised Statutes, is
17 amended to read as follows:



1 " [†]§46-71.5[†] **Indemnification of county agencies.** (a)

2 To receive county aid, assistance, support, benefits, services,
3 and interests in or rights to use county property, a state
4 agency may agree in writing to an indemnity provision by which
5 the State agrees to indemnify, defend, and hold harmless a
6 county agency, its officers, agents, and employees when:

- 7 (1) The governor approves the State's proposed
8 indemnification; and
- 9 (2) The comptroller, pursuant to section 41D-8.5, has
10 obtained an insurance policy or policies in an amount
11 sufficient to cover the liability of the State that
12 reasonably may be anticipated to arise under the
13 indemnity provision, or has determined that it is not
14 in the best interest of the State to obtain insurance.

15 (b) Notwithstanding subsection (a), the department of
16 education may agree in writing to an indemnity provision by
17 which the State agrees to indemnify, defend, and hold harmless a
18 county agency, its officers, agents, and employees when:

- 19 (1) The use of the county facility will be for a school
20 purpose or a school function; and
- 21 (2) The governor approves, in writing, a single form for
22 proposed indemnification submitted by the department



1 of education which, upon approval, shall serve as
2 approval under this paragraph for any public school
3 purpose or function on any county facility for the
4 remainder of that same school year.

5 ~~[(b)]~~ (c) An indemnity provision not in strict compliance
6 with this section shall not give rise to a claim against the
7 State under chapter 661 or otherwise waive the State's sovereign
8 immunity."

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

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Report Title:

Indemnification of County Agencies; Department of Education

Description:

Facilitates the process by which the department of education obtains approval for the State to indemnify, defend, and hold harmless a county agency, its officers, agents, and employees for public school purposes and functions on county facilities.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

