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# 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 governor may  
16 delegate to the superintendent of education or the deputy  
17 superintendent if so designated by the superintendent of  
18 education the authority to agree to indemnify, defend, and hold  
19 harmless a county agency, its officers, agents, and employees  
20 when:

21           (1) The use of the county property will be for a school  
22           purpose or a school function;

1       (2) The governor approves, in writing, the indemnity  
2       provision to be used by the superintendent of  
3       education or the deputy superintendent if so  
4       designated by the superintendent of education which,  
5       upon approval, may serve as approval under this  
6       paragraph for some or all public school purposes or  
7       functions on county properties for the remainder of  
8       that same school year; and  
9       (3) 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)]~~ (c) An indemnity provision not in strict compliance  
16 with this section shall not give rise to a claim against the  
17 State under chapter 661 or otherwise waive the State's sovereign  
18 immunity."

19       SECTION 3. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

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

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**Report Title:**

Indemnification of County Agencies; Department of Education

**Description:**

Authorizes the governor to delegate to the superintendent of education the authority to agree to indemnify, defend, and hold harmless a county agency, its officers, agents, and employees, under certain circumstances, when the use of county property will be for a school purpose or function. (SD1)

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