



GOV. MSG. NO. 603

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

May 27, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 27, 2010, the following bill was signed into law:

SB2116 SD2 HD2 CD1

A BILL FOR AN ACT
RELATING TO INDEMNIFICATION OF COUNTY
AGENCIES.
ACT 145 (10)

Sincerely,

LINDA LINGLE

Approved by the Governor

on MAY 27 2010

THE SENATE
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

ACT 145

S.B. NO. 2116
S.D. 2
H.D. 2
C.D. 1

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 public
22 school purpose or a public 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 provision, upon approval, may serve as approval under
6 this paragraph for 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.

22 APPROVED this 27 day of MAY, 2010


GOVERNOR OF THE STATE OF HAWAII