
A BILL FOR AN ACT

RELATING TO THE PERFORMING ARTS.

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

1 SECTION 1. The purpose of this Act is to enhance and
2 broaden the purposes of the State of Hawaii endowment fund,
3 which is a separate fund of the Honolulu symphony trust. The
4 legislature finds that the income and capital gains from the
5 endowment fund should also be used for music production,
6 performances, and music education, in addition to the current
7 limited purpose of the production of music by an Oahu-based
8 symphony orchestra.

9 The Honolulu symphony endowment fund was created in 1987 to
10 be used to fund the Honolulu symphony operations. In 1988, the
11 name of the fund was changed to the State of Hawaii endowment
12 fund. In 1995, a portion of the income and capital gains from
13 the fund was transferred to the state foundation on culture and
14 the arts, to be used for the production of music by an Oahu-
15 based symphony orchestra as determined by the state foundation
16 on culture and the arts.



1 The legislature notes that, to date, the state foundation
2 on culture and the arts has not played any significant role in
3 the management and administration of the fund. More
4 importantly, as of December 2010, the Honolulu symphony society
5 filed for Chapter 7 bankruptcy. Consequently, this Act also
6 clarifies that the endowment fund shall be administered by the
7 department of accounting and general services.

8 SECTION 2. Section 40-88, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§40-88 State of Hawaii endowment fund created.** (a)

11 There shall be established [~~as a separate fund of the Honolulu~~
12 ~~symphony trust created by the trust agreement dated December 5,~~
13 ~~1986,~~] a fund to be known as the State of Hawaii endowment fund.
14 The income and capital gains from the [~~\$2,000,000 contributed by~~
15 ~~the State of Hawaii shall be transferred on a quarterly basis to~~
16 ~~the state foundation on culture and the arts, performing and~~
17 ~~visual arts events private contribution account to] fund shall
18 be used for the production of music by an Oahu-based symphony
19 orchestra or for the education of children in school in
20 preparation for the production of music with instruction by a
21 performer from an Oahu-based symphony orchestra, including any
22 Oahu-based youth symphony orchestra, as determined by the state~~



1 foundation on culture and the arts. The State of Hawaii
2 endowment fund shall be subject to the restrictions that:

3 (1) No part of the principal amount contributed to the
4 fund by the State [~~or by matching grants~~] shall be
5 used for operations of the [~~Honolulu~~] Oahu-based
6 symphony[+] orchestra; provided that in exigent
7 circumstances, as determined by the state foundation
8 on culture and the arts, the foundation may permit no
9 more than three per cent of the principal amount to be
10 used, pursuant to rules adopted under chapter 91;

11 (2) Income and capital gains from the fund shall not be
12 distributed for use in the operations of the
13 [~~Honolulu~~] Oahu-based symphony orchestra during any
14 period that the value of the fund shall be less than
15 the principal amounts contributed to the fund[~~+~~and];
16 provided that in exigent circumstances, as determined
17 by the state foundation on culture and the arts, the
18 foundation may permit no more than three per cent of
19 income and capital gains from the fund to be used,
20 pursuant to rules adopted under chapter 91;

21 (3) The amounts contributed to the fund by the State shall
22 revert to the State to the extent that [~~matching or~~



1 ~~other~~] conditions to the grant of the funds are not
2 met [~~, and the~~]; and

3 (4) The fund [~~also~~] shall be subject to additional
4 restrictions as may be imposed with respect to
5 transfers of funds in future legislation appropriating
6 sums to be contributed to the fund.

7 ~~[(b) Matching conditions set forth in legislation~~
8 ~~appropriating funds to be contributed to the State of Hawaii~~
9 ~~endowment fund, including conditions in previous legislation~~
10 ~~appropriating sums for the fund, shall be satisfied to the~~
11 ~~extent that any of the following shall be received prior to the~~
12 ~~date by which the funds are to be matched:~~

13 ~~(1) Cash, including the United States dollar equivalent of~~
14 ~~foreign currency, on the date of its contribution to~~
15 ~~the fund;~~

16 ~~(2) Personal property, including securities and cash value~~
17 ~~of life insurance policies, and real property~~
18 ~~transferred to the symphony, valued by appraisal,~~
19 ~~market quotations or other generally accepted~~
20 ~~valuation methods as of a date on or about the date of~~
21 ~~contribution of the property to the fund; and~~



1 ~~(3) All portions of pledges that are payable not later~~
 2 ~~than five full years following the date by which the~~
 3 ~~funds contributed by the State are to be matched,~~
 4 ~~provided that any sums appropriated by the State and~~
 5 ~~matched by such pledges within the matching period~~
 6 ~~shall revert to the general fund to the extent the~~
 7 ~~sums appropriated by the State are not matched by~~
 8 ~~actual payment of such pledges within the five year~~
 9 ~~period.~~

10 ~~(e)]~~ (b) In the event that any funds contributed by the
 11 State are to revert to the general fund of the State, pursuant
 12 to subsection (a) (3) [~~or (b) (3),~~], the amount of the reversion
 13 shall be equal to the principal amount of the funds contributed
 14 by the State [~~that have not been matched,~~] for which conditions
 15 to the grant of funds have not been met and no part of any
 16 interest, gains, or other earnings on said principal amount
 17 shall revert to the State.

18 ~~(d)]~~ (c) The aggregate principal sum in the fund shall be
 19 invested in accordance with the provisions of the Honolulu
 20 symphony trust in a manner intended to maximize the rate of
 21 return on investment of the fund consistent with the objective
 22 of preserving the principal amounts contributed to the fund. In



1 the event of the termination of the Honolulu symphony trust, the
2 principal amount of all contributions made by the State to the
3 State of Hawaii endowment fund shall be distributed to the
4 general fund of the State and any other amounts remaining in the
5 State of Hawaii endowment fund shall be distributed in
6 accordance with the provisions of the Honolulu symphony trust.
7 An annual audit by an independent auditor covering the State of
8 Hawaii endowment fund shall be submitted to the department of
9 accounting and general services by the [~~Honolulu~~] Oahu-based
10 symphony[~~-~~] orchestra."

11 SECTION 3. Act 97, Session Laws of Hawaii 2006, section 2,
12 as amended by Act 156, Session Laws of Hawaii 2007, section 1,
13 as amended by Act 65, Session Laws of Hawaii 2009, section 1, is
14 amended to read as follows:

15 "SECTION 2. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$4,000,000 or so much
17 thereof as may be necessary for fiscal year 2006-2007 to be
18 deposited into the State of Hawaii endowment fund, from which
19 the income and capital gains shall be used for the production of
20 music by an Oahu-based symphony orchestra[~~;~~ ~~provided that the~~
21 ~~funds appropriated in this section are matched, dollar for~~
22 ~~dollar, by private funds or pledges pursuant to section 40-88,~~



1 ~~Hawaii Revised Statutes; provided further that all pledges or~~
2 ~~portions of pledges not collected by February 28, 2013, shall~~
3 ~~cause any unexpended or unencumbered balance from the~~
4 ~~appropriation to revert to the general fund.] or for the~~
5 education of children in school in preparation for the
6 production of music with instruction by a performer from an
7 Oahu-based symphony orchestra, including any Oahu-based youth
8 symphony orchestra.

9 The sum appropriated shall be expended by the department of
10 accounting and general services for the purposes of this Act."

11 SECTION 4. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so
13 much thereof as may be necessary for fiscal year 2012-2013 for
14 the production of music by an Oahu-based symphony orchestra or
15 for the education of children in school in preparation for the
16 production of music with instruction by a performer from an
17 Oahu-based symphony orchestra, including any Oahu-based youth
18 symphony orchestra.

19 The sum appropriated shall be expended by the department of
20 accounting and general services for the purposes of this Act.

21 SECTION 5. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

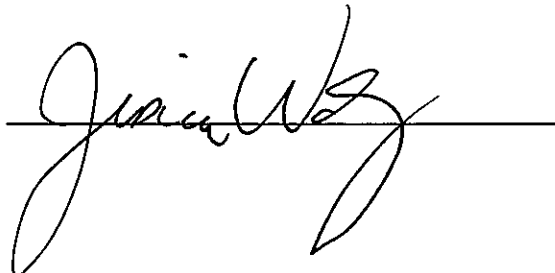


H.B. NO. 2297

1 SECTION 6. This Act shall take effect on July 1, 2012.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Jim W. By", is written over a horizontal line. The signature is cursive and stylized.

JAN 20 2012



H.B. NO. 2297

Report Title:

Oahu-based Symphony Orchestra; State Foundation on Culture and the Arts

Description:

Allows a portion of the principal as well as the income and capital gains from the State of Hawaii Endowment Fund to be used for the operations of an Oahu-based symphony orchestra during exigent circumstances, as determined by the State Foundation on Culture and the Arts and eliminates matching conditions for those funds. Makes an appropriation for an Oahu-based symphony orchestra. Effective July 1, 2012.

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

