

JAN 20 2017

A BILL FOR AN ACT

RELATING TO DEPARTMENTAL ADMINISTRATIVE EXPENSES.

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

1 SECTION 1. The purpose of this Act is to address
2 administrative expenses of the departments.

3 More specifically, this Act repeals section 36-30, Hawaii
4 Revised Statutes, which authorizes the assessment of special
5 funds for departmental administrative expenses and transfer of
6 the assessment to the general fund.

7 The legislature finds that section 36-30, Hawaii Revised
8 Statutes, is not being implemented effectively because:

9 (1) The departmental administrative expense assessments do
10 not generate substantial revenues for the general
11 fund; and

12 (2) The section is implemented inconsistently among the
13 departments in various ways, including:

14 (A) The departments are not uniform in the deduction
15 of itemized administrative expenses from the
16 final departmental administrative expense
17 assessments; and



1 (B) Some departments appear to take more itemized
2 administrative expense deductions than
3 appropriate in order to reduce their assessments
4 and resultant loss of their special funds.

5 This inconsistent implementation of the section by the
6 departments raises questions of fairness.

7 Furthermore, if departmental administrative expense
8 assessments of the special funds are no longer required, the
9 savings may be expended for program purposes.

10 SECTION 2. Section 21D-5, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) The Hawaii legislative publications special fund
13 shall not be subject to section 36-27 [~~7-36-30,~~] or 37-53."

14 SECTION 3. Section 36-29, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§36-29 Transfer from harbor special fund.** Any other law
17 to the contrary notwithstanding, there shall be deducted from
18 time to time by the director of finance for the purpose of
19 defraying the prorated estimate of central service expenses of
20 government in relation to the harbor special fund five per cent
21 of all receipts and deposits in the harbor special fund after



1 deducting therefrom any amounts pledged, charged, or encumbered
2 for the payment of bonds or interest thereon during the current
3 year, from which receipts or deposits no deduction of five per
4 cent has previously been made. The deductions shall be
5 transferred to the general fund of the State and become general
6 realizations of the State. For the purposes of this section,
7 the term "any amount pledged, charged, or encumbered for the
8 payment of bonds or interest thereon during the current year"
9 shall include:

- 10 (1) Amounts [~~which~~] that are so pledged, charged or
11 encumbered;
- 12 (2) Amounts otherwise required to be applied to the
13 payment of principal of and interest on revenue bonds
14 or other revenue obligations;
- 15 (3) Amounts required to be paid into a separate special
16 fund for the payment of principal of and interest on
17 revenue bonds or other revenue obligations payable
18 from the second separate special fund; and
- 19 (4) Amounts required by law to be paid from the harbor
20 special fund into the general fund of the State to



1 reimburse the general fund for bond requirements for
2 general obligation bonds issued for harbor purposes.

3 The second separate special fund maintained by deposits
4 from the harbor special fund shall not be deemed to be a special
5 fund within the meaning of section 36-27 [~~or section 36-30~~].
6 The director of transportation shall cooperate with the director
7 of finance in effecting the transfer."

8 SECTION 4. Section 36-31, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) If any transfer contemplated by sections 36-27[~~7~~] or
11 36-29[~~7~~, ~~and 36-30~~] might, if effected, result in loss to the
12 State or to any special fund affected, of any federal funds, or
13 would be in violation of the Constitution or any law of the
14 United States, the governor shall issue an executive order
15 setting forth the facts and suspending the application of
16 sections 36-27[~~7~~] or 36-29[~~7~~, ~~and 36-30~~] to the special fund
17 affected in whole or in part, or limiting the transfer, as shall
18 be necessary to avoid the loss of federal funds or to avoid the
19 unconstitutionality or violation. The transfer shall not be
20 made except to the extent, if at all, which will not result in
21 the loss of federal funds or violation."



1 SECTION 5. Section 171-172, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) The Turtle Bay conservation easement special fund
4 shall be exempt from the central service expenses of section 36-
5 27 [~~and departmental administrative expenses of section 36-30~~]."

6 SECTION 6. Section 201-85, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§201-85 Exemptions. The department is authorized to hire
9 employees necessary to staff its out-of-state offices subject to
10 chapter 76 and legislative appropriations. The department may
11 also appoint such other employees exempt from chapter 76 as may
12 be necessary to administer the affairs of its out-of-state
13 offices. The initial appointment shall not exceed three years,
14 during which time the department shall submit to the legislature
15 a request for approval prior to continuation of the position.
16 The department shall set the duties, responsibilities, salaries,
17 holidays, vacations, leaves, hours of work, and working
18 conditions for these employees. Subject to the approval of the
19 director of budget and finance, the department may be exempted
20 from the following state laws only to the extent necessary for
21 the conduct of its business in operating out-of-state offices:



- 1 (1) [~~Sections~~] Section 36-27 [~~and 36-30~~], relating to
2 special fund transfers and reimbursements to the
3 general fund;
- 4 (2) Chapter 36, relating to management of state funds;
- 5 (3) Chapter 38, relating to deposits of public funds;
- 6 (4) Chapter 40, relating to audit and accounting, except
7 that the department shall comply with section 40-81;
- 8 (5) Chapter 76, relating to civil service;
- 9 (6) Chapter 77, relating to compensation;
- 10 (7) Section 78-1, relating to public employment, except
11 when expressly hiring personnel subject to section
12 78-1; and
- 13 (8) Section 171-30, relating to acquisition of real
14 property.

15 All moneys necessary for the establishment and operation of
16 out-of-state offices shall be allocated by the legislature
17 through appropriations out of the state general fund. The
18 department shall include in its budgetary request for each
19 upcoming fiscal period, the amounts necessary to effectuate the
20 purposes of this section."



1 SECTION 7. Section 261-5.6, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The rental motor vehicle customer facility charge
4 special fund shall be exempt from [~~sections 36-30 and~~] section
5 103-8.5."

6 SECTION 8. Section 264-122, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) Moneys in the highway development special fund shall
9 be used for the following purposes:

- 10 (1) Capital costs of qualifying proposed state highway
11 improvements;
- 12 (2) Reevaluation of the need, geographic limitations,
13 amount, and use of impact fees;
- 14 (3) Transfers to reimburse other special funds for
15 expenditures which otherwise might have been funded
16 with moneys in the highway development special fund;
- 17 (4) Transfers under [~~sections~~] section 36-27 [~~and 36-30~~];
- 18 (5) Refunds under section 264-125; and
- 19 (6) The department's costs to implement this part,
20 including but not limited to costs to administer the
21 highway development special fund."



1 SECTION 9. Section 304A-3005, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§304A-3005 Research corporation excepted from certain
4 state laws. To carry out the purposes and objectives of the
5 research corporation, including the conduct of research and
6 training projects, the research corporation shall be granted
7 flexibility in hiring its personnel and in handling and
8 disbursing moneys by being excepted from the following state
9 laws:

- 10 (1) [~~Sections~~] Section 36-27 [~~and 36-30~~], relating to
11 special fund reimbursements to the state general fund;
- 12 (2) Chapter 103D, relating to advertising for bids and
13 purchases to be made in Hawaii whenever public moneys
14 are expended;
- 15 (3) Chapter 103D with respect to construction contracts;
16 provided that the exception shall not apply where
17 state funds are used and compliance with chapter 103D
18 is required by a bill enacted by the legislature;
- 19 (4) Chapter 76, relating to civil service; and
- 20 (5) Section 78-1, relating to public employment."



1 SECTION 10. Section 342D-82, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) In addition to any other power or duty prescribed by
4 law, the director shall:

5 (1) Establish fiscal controls and accounting procedures at
6 least sufficient to assure proper accounting for
7 appropriate accounting periods of payments,
8 disbursements, revenues, and fees received and made
9 for fund balances at the beginning and end of the
10 accounting period;

11 (2) Comply with sections 39-61 and 39-62 and ensure that
12 any revenue bonds issued are excluded from the state
13 constitutional debt ceiling. The revolving fund is a
14 "special fund" within the meaning of article VII,
15 section 13, of the state constitution and part III of
16 chapter 39. The revolving fund is not a "special
17 fund" within the meaning of [~~sections~~] section 36-27
18 [~~and 36-30~~]; and

19 (3) No later than twenty days prior to the convening of
20 each regular session of the legislature, submit to the
21 legislature a financial report addressing the



1 operations of the revolving fund during the last
2 completed fiscal year."

3 SECTION 11. Section 36-30, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§36-30 Special fund reimbursements for departmental
6 administrative expenses. (a) Each special fund, except the:~~

7 ~~(1) Special out-of-school time instructional program fund
8 under section 302A-1310;~~

9 ~~(2) School cafeteria special funds of the department of
10 education;~~

11 ~~(3) Special funds of the University of Hawaii;~~

12 ~~(4) State educational facilities improvement special fund;~~

13 ~~(5) Special funds established by section 206E-6;~~

14 ~~(6) Aloha Tower fund created by section 206J-17;~~

15 ~~(7) Funds of the employees' retirement system created by
16 section 88-109;~~

17 ~~(8) Hawaii hurricane relief fund established under chapter
18 431P;~~

19 ~~(9) Convention center enterprise special fund established
20 under section 201B-8;~~



- 1 ~~(10) Hawaii health systems corporation special funds and~~
- 2 ~~the subaccounts of its regional system boards;~~
- 3 ~~(11) Tourism special fund established under section 201B-~~
- 4 ~~11;~~
- 5 ~~(12) Universal service fund established under section 269-~~
- 6 ~~42;~~
- 7 ~~(13) Emergency and budget reserve fund under section 328L-~~
- 8 ~~3;~~
- 9 ~~(14) Public schools special fees and charges fund under~~
- 10 ~~section 302A 1130;~~
- 11 ~~(15) Sport fish special fund under section 187A 9.5;~~
- 12 ~~[(16)] Neurotrauma special fund under section 321H 4;~~
- 13 ~~[(17)] Center for nursing special fund under section 304A-~~
- 14 ~~2163;~~
- 15 ~~[(18)] Passenger facility charge special fund established by~~
- 16 ~~section 261 5.5;~~
- 17 ~~[(19)] Court interpreting services revolving fund under~~
- 18 ~~section 607 1.5;~~
- 19 ~~[(20)] Trauma system special fund under section 321 22.5;~~
- 20 ~~[(21)] Hawaii cancer research special fund;~~
- 21 ~~[(22)] Community health centers special fund;~~



S.B. NO. 721

- 1 ~~[(23)] Emergency medical services special fund,~~
- 2 ~~[(24)] Rental motor vehicle customer facility charge special~~
3 ~~fund established under section 261-5.6,~~
- 4 ~~[(25)] Shared services technology special fund under section~~
5 ~~27-43,~~
- 6 ~~[(26)] Nursing facility sustainability program special fund~~
7 ~~established pursuant to Act 156, Session Laws of~~
8 ~~Hawaii 2012,~~
- 9 ~~[(27)] Automated victim information and notification system~~
10 ~~special fund established under section 353-136,~~
- 11 ~~[(28)] Hospital sustainability program special fund under Act~~
12 ~~217, Session Laws of Hawaii 2012, as amended, and~~
- 13 ~~[(29)] Civil monetary penalty special fund under section 321-~~
14 ~~30.2,~~
- 15 ~~shall be responsible for its pro rata share of the~~
16 ~~administrative expenses incurred by the department responsible~~
17 ~~for the operations supported by the special fund concerned.~~
- 18 ~~(b) Administrative expenses shall include:~~
- 19 ~~(1) Salaries,~~
- 20 ~~(2) Maintenance of buildings and grounds,~~
- 21 ~~(3) Utilities,~~



1 ~~(4) General office expenses; and~~
2 ~~(5) Implementation of information technology policies~~
3 ~~developed by the chief information officer and the~~
4 ~~information technology steering committee pursuant to~~
5 ~~section 27-43.~~

6 ~~(c) The pro rata share of each special fund shall be that~~
7 ~~proportion of the administrative expenses of the department,~~
8 ~~including those paid from all special funds administered by the~~
9 ~~department, which the expenditures of the special fund bear to~~
10 ~~the total expenditures of the department; provided that in~~
11 ~~determining the amount to be charged to each special fund for~~
12 ~~its pro rata share:~~

13 ~~(1) Credit shall be given for any administrative expenses~~
14 ~~paid from the special fund concerned; and~~

15 ~~(2) Other adjustments shall be made as necessary to~~
16 ~~achieve an equitable apportionment.~~

17 ~~(d) The director of finance may determine the amount to be~~
18 ~~charged to each special fund and may cause the amounts to be~~
19 ~~transferred to the general fund as reimbursements.~~

20 ~~(e) No later than twenty days prior to the convening of~~
21 ~~each regular session of the legislature, the director shall~~



S.B. NO. 721

1 ~~report all departmental administrative expenses assessments made~~
2 ~~during the preceding fiscal year."]~~

3 SECTION 12. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 13. This Act shall take effect on July 1, 2017.

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INTRODUCED BY:

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S.B. NO. 721

Report Title:

Departmental Administrative Expenses

Description:

Repeals the statute authorizing the assessment of a special fund for departmental administrative expenses.

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

