

**"CHAPTER 29
FEDERAL AID**

Part I. Coordinator

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Note

Federal funding policy study by the office of the governor; reports to 2017-2018 legislature. L 2016, c 225.

Cross References

Hawaii performance partnerships board, see §§27-51 to 27-54.

"PART I. COORDINATOR

§29-1 Establishment of office. There shall be in Washington, District of Columbia, a Hawaii office of federal programs coordinator. The office shall be headed by a coordinator who shall be appointed and removed by the governor, not subject to chapters 76 and 89. Effective July 1, 1982, the salary shall be \$38,610 a year. Effective July 1, 1986, the salary of the federal programs coordinator shall be \$0 a year. The coordinator shall appoint necessary staff, within available appropriations, not subject to chapters 76 and 89.

The office is placed within the department of budget and finance for administrative purposes. [L 1965, c 237, §1; Supp, §12A-1; HRS §29-1; am L 1969, c 127, §5; am L 1975, c 58, §10; am L 1982, c 129, §2; am L 1986, c 128, §2; am L 2002, c 148, §3]

- " **§29-2 Powers and duties.** The coordinator shall:
- (1) Provide a mechanism by which federal, state, and local agencies can coordinate their plans, policies, and activities;
 - (2) Create congressional awareness and understanding of the needs and potentials of the State;
 - (3) Encourage and advise state departments, universities or other appropriate state and local agencies in Hawaii of the availability of and the requirements of federal grants;
 - (4) Advise and provide necessary factual data to Congress and our congressional delegation;
 - (5) Recommend to the governor and the administration the types and necessity of either legislative or administrative action in order that the State may avail itself of beneficial federal programs;
 - (6) Maintain contacts with federal, state, and local officials and agencies so that the programs of all levels of government may be coordinated;

- (7) Cooperate with our congressional delegation in promoting federal legislative or administrative action which may be beneficial to Hawaii;
- (8) Appear before congressional committees in support of or in opposition to legislation which affects Hawaii;
- (9) Perform such other services as may be required by the governor and the legislature;
- (10) Administer funds allocated to this office; be authorized to accept, disburse, and allocate funds which may become available from other governmental units; provided that all the funds shall be disbursed or allocated in compliance with any specific designation stated by the donating governmental unit and in the absence of specific designation, the funds shall be disbursed or allocated on projects directly benefiting the people of the State in accordance with this part; and
- (11) Submit to the governor and legislature reports as requested and submit an annual report with recommendations to the governor and the legislature. [L 1965, c 237, §2; Supp, §12A-2; HRS §29-2]

Cross References

Annual reports, due dates, see §93-12.

" **§29-3 Appropriations.** The governor may include in the governor's operating budget such sums as the governor deems necessary for the continuation and operations of the program. [L 1965, c 237, pt of §3; Supp, §12A-3; HRS §29-3; gen ch 1985]

"PART II. GENERAL PROVISIONS

§29-11 Definitions. "Aid" or "federal-aid" as used in this part means supplies, allowances of damages to state or county property by federal agencies, grants-in-aid, allocation of federal funds, to be matched by state funds, or otherwise, the furnishing of equipment and supplies and all other aids, grants, furnishings, assistance, advancements, and reimbursements that may be provided by federal legislation, present or future, and which may be available to the State or its political subdivisions. [L 1951, c 289, §1; RL 1955, §12-1; HRS §29-11]

Attorney General Opinions

Extent of political activity by state employees subject to Federal Hatch Act. Att. Gen. Op. 64-46.

" **§29-12 Duties of attorney general, director of finance.**

The attorney general and the director of finance shall promptly initiate the necessary action to take advantage of or secure any federal aid which may be available to the State or its political subdivisions. [L 1951, c 289, §2; RL 1955, §12-2; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §29-12]

" **§29-13 Governor may accept federal acts.** The governor may accept, on behalf of the State, the provisions of any act of Congress making grants or allotments of federal-aid moneys available for expenditure in the State. [L 1939, c 196, §1; RL 1945, §401; RL 1955, §12-3; HRS §29-13]

Case Notes

Cited: 38 H. 310, 318.

" **§29-14 Boards, etc., may accept funds, comply with federal acts.** Except as otherwise provided by law, any board, commission, department, or officer of the State may accept and receive on behalf of the State, and receipt for, any and all grants or allotments of federal-aid moneys made available to the State by or pursuant to an act of Congress, and enter into or make such plan, agreement, or other arrangement with the agency designated by the act of Congress as is necessary to carry out the purposes of the Act; provided that if as a condition to receiving the federal-aid moneys it is necessary to match all or any part of the grant or allotment with state moneys no plan, agreement, or arrangement may be entered into unless the board, commission, department, or officer has under its or the officer's control moneys which may be expended lawfully for the purpose.

The governor may transfer funds from the department of health to the department of human services and from the department of human services to the department of labor and industrial relations to obtain additional federal funds for medical assistance under Title XIX of the Social Security Act, as amended, and the work incentive program. The governor may also transfer funds from one department to another for the purpose of obtaining federal matching grants and allotments;

provided that the state moneys have been appropriated for the purpose for which federal grants and allotments may be obtained. [L 1939, c 196, §2; RL 1945, §402; RL 1955, §12-4; HRS §29-14; am L 1969, c 65, §1; am L 1970, c 105, §5; gen ch 1985; am L 1987, c 339, §4]

Revision Note

The words "and industrial relations" added to "department of labor".

" §29-15 Conflict between federal and state requirements.

In the case of any contract, the funds for which have been wholly or in part promised, loaned, or furnished by the United States, or any instrumentality thereof, if the United States, or its instrumentality, requires that the advertisement for tenders, tenders, performance bond, or contract contain terms or provisions contrary to any state law, then as to the advertisements, tenders, bonds, or contracts the terms and provisions required by the United States, or its instrumentality, shall govern and are made applicable, and the officer expending the funds shall conform to such requirements as the United States, or its instrumentality, shall provide or require, any other law or laws of the State to the contrary notwithstanding. The provisions of this section shall be liberally construed so as not to hinder or impede the State in contracting for any project involving financial aid from the federal government. [L 1935, c 50, §1; RL 1945, §403; RL 1955, §12-5; HRS §29-15]

Case Notes

Re Federal Aid to Families with Dependent Children, department of social services and housing cannot consider tax refund as "income". 396 F. Supp. 375.

" §29-15.5 Indemnification of federal agencies. (a) To receive federal aid, assistance, support, benefits, services, and interests in or rights to use federal property, a state agency may agree in writing to an indemnity provision by which the State agrees to indemnify, defend, and hold harmless a United States agency, its officers, agents, and employees when all of the following conditions are satisfied:

- (1) Federal law expressly or by clear implication requires the indemnity provision;

- (2) The governor, following a favorable review by the department of the attorney general, approves the State's proposed indemnification; and
- (3) The comptroller, pursuant to chapter 41D, has obtained an insurance policy or policies in an amount sufficient to cover the liability of the State that reasonably may be anticipated to arise under the indemnity provision or has determined that it is not in the best interest of the State to obtain insurance.

(b) An indemnity provision not in strict compliance with this section shall not give rise to a claim against the State under chapter 661 or otherwise waive the State's sovereign immunity.

(c) This section shall not affect sections 201H-152(b)(2), 212-7, or 523A-64. [L 1997, c 168, §1; am L 1998, c 11, §2; am L 2007, c 249, §5]

" **§29-16 Treasury as depository; duties of comptroller.** All federal-aid moneys received by the State, except as otherwise provided for by the federal government, shall be deposited with the director of finance and, subject to appropriation by the legislature or other law authorizing expenditure, shall be disbursed upon warrants drawn by the comptroller of the State supported by vouchers approved by the board, commission, department, or officer having charge of the expenditure of the moneys by virtue of the plan, agreement, or arrangement entered into or made with the proper federal agency.

The comptroller may prescribe and maintain a system of accounts and accounting as may be required by the federal government, or any agency thereof, in carrying out the objects and purposes of the plan, agreement, or arrangement. [L 1939, c 196, §3; RL 1945, §404; RL 1955, §12-6; am L 1957, c 152, §1; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §29-16; am L 2015, c 148, §2]

" **§§29-17 to 23 REPEALED.** L 1994, c 186, §19.

" **§29-24 REPEALED.** L 2011, c 124, §49.

" **§29-25 Department of education; federal funds; general fund offset.** (a) Federal impact aid, United States Department of Defense funds, and federal indirect overhead reimbursements

received by the department of education shall not be returned to the general fund.

(b) If the amount of federal impact aid and United States Department of Defense funds received by the department of education exceeds the authorized appropriation in the general appropriations act or the supplemental appropriations act, then the governor shall:

- (1) Allow the department of education to increase the federal fund expenditure ceiling for all program identification numbers, each by an amount proportionate to its portion of the total general fund appropriation made by the legislature and by the amount that the federal impact aid and United States Department of Defense funds received by the department of education exceeds the authorized appropriation in the general appropriations act or the supplemental appropriations act; and
- (2) Allow the department of education to retain the full amount of the general fund offset created by increased impact aid receipts; provided that the department shall not use the general fund offset to create new programs or expand existing programs.

(c) Beginning July 1, 2004, and for each fiscal year thereafter, the department of education may set aside \$100,000 of federal impact aid moneys received pursuant to this section to:

- (1) Establish and fund a permanent, full-time military liaison position within the department of education; and
- (2) Fund the joint venture education program to facilitate interaction between the military community and the department of education.

The military liaison position established under paragraph (1) shall be exempt from chapter 76 but shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State.

(d) The department of education shall submit a report to the legislature, not fewer than twenty days prior to the convening of each regular session, concerning the exact amount and specific nature of federal impact aid, United States Department of Defense funds, and federal indirect overhead reimbursements received under this section. [L 2000, c 234, §1; am L 2004, c 147, §1]

Cross References

Related provisions, see §§302A-1401 to 1406.