

**ACT 97**

A Bill for an Act Relating to County Governments and Making an Appropriation for the Assignment of Certain of Their Responsibilities.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of the Act is to fix responsibility for certain functions, which are of statewide concern, in the state government. These functions which are hereby declared to be state functions are as follows: (1) the planning, construction, improvement and maintenance of public school facilities and grounds and the transportation of school children; (2) the burial of indigents; (3) the planning, construction, improvement, maintenance and operation of public hospitals and other public health and medical facilities; (4) the rendering of medical treatment and hospitalization services to state and county pensioners; and (5) the administration and operation of district courts.

**PART I**

**SECTION 2.** The Governor is authorized to assign the foregoing functions, except the administration and operation of district courts, to such respective department or departments as can most appropriately and effectively perform such functions. The Governor shall submit a report to the Third State Legislature, twenty days before the Budget Session of 1966 convenes, which report shall state to which departments functions have been assigned and the reasons therefor.

**SECTION 3.** Notwithstanding any provision in this Part or any other law to the contrary, the Governor, in order to provide an uninterrupted continuation of services in the functional areas set forth in Section 1, shall enter into contracts with the several counties. The contracts shall clearly specify, but shall not be limited to, the nature and extent of the services to be provided by the counties in behalf of the State for the fiscal period beginning July 1, 1965 and ending June 30, 1966; an effective date for such contracts of July 1, 1965; the powers, duties and responsibilities of the contracting parties, the total amount of the payments to be made by the State for such services; and any other matter necessary to carry out effectively and efficiently the purpose and intent of this Part, provided, however, that all revenues formerly derived by the counties for services in the functional areas set forth in Section 1 shall be deposited to the credit of the general fund of the State or be applied to the payments to be made by the State as provided hereunder.

**SECTION 4.** The state department to which functions have been assigned by the Governor shall succeed to all the rights and powers exercised, and all of the duties and obligations incurred by the counties in the exercise of the functions transferred, whether such powers, duties and obligations are mentioned in or granted by any law, contract, or other document; provided, however, that the counties shall not be relieved of their obligation of paying the interest and principal

on bonds which have been issued for improvements related to the functions set forth above. Except as provided herein, all references to a county, in any law, contract or document in connection with the functions assigned to the state by this Part shall apply to the state government or respective state department as the case may be as if it were specifically named in such law, contract or document in place of the county or any agency thereof.

**SECTION 5.** The status, rights, benefits and privileges of county employees shall not be affected by this Part.

**SECTION 6.** No offense committed and no penalty or forfeiture incurred under the laws of the state or any county ordinance or rule or regulation shall be affected by the assignment of functions to the state by this Part; provided that whenever any punishment, penalty, or forfeiture is mitigated by any provision of this Part, such provision may be extended and applied to any judgment pronounced after the passage of this Act. No suit or prosecution, pending at the time this Part takes effect, shall be affected by this Part. The right of any administrative officer of the county to institute proceedings for prosecution for an offense or any action to recover a penalty or forfeiture shall henceforth be vested in the head of the state department to which the function has been assigned by the Governor or some person designated by such head of the department or the Governor or as may be otherwise directed by law.

The right of appeal from administrative actions or determinations as provided by law shall not be impaired by this Part.

Whenever a right of appeal from administrative actions or determinations is provided by law to any county for functions which are assigned to the state, such right of appeal shall lie to or from the state department to which such assignment of function has been made. Such right of appeal shall exist to the same extent and in accordance with the procedure as immediately prior to the effective date of this Part.

**SECTION 7.** The Governor is authorized and empowered to the extent and only to the extent necessary to preserve the receipt of any federal aid and not to impair the obligation of the State or counties to the holders of any bonds issued by the State or counties, to modify the strict provisions of this Part and shall promptly report any such modification with his reasons therefor to the succeeding legislature for review.

**SECTION 8.** All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Part are hereby amended to conform herewith. All Acts passed during the General Session of 1965 whether enacted before or after the passage of this Part shall be amended to conform to this Part, unless such Acts specifically provide that this Part is being amended.

**SECTION 9.** The sum of \$10,400,000, or so much thereof as shall be sufficient to accomplish the purpose or programs as set forth

herein, are hereby appropriated out of the moneys in the treasury from general revenues for the fiscal period beginning July 1, 1965 and ending June 30, 1966.

**SECTION 10.** Expenditures from federal and other sources of funds available for the functions herein specified are hereby approved for the fiscal period beginning July 1, 1965 and ending June 30, 1966.

**SECTION 11.** The Governor, in cooperation with the county governments and agencies affected by this Part, may submit to the Third State Legislature, twenty days before the Budget Session of 1966 convenes, such proposals as he may deem necessary or desirable to effect the physical transfer of all records, equipment, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired or held by the several county governments or agencies thereof and affected by this Act, together with his recommendations concerning the change of status from county to state of such employees affected by this Act and their physical transfer, and such other related matters as he may determine should properly be considered by the legislature at said Budget Session, including the renewal of such contracts with the counties described in Section 3 of this Part for the fiscal year then next succeeding.

**SECTION 12.** This Part shall be liberally construed in order to accomplish the purpose of this Part. Any portion of this Part judicially declared to be invalid shall not affect the remaining portions.

**SECTION 13.** This Part shall take effect on July 1, 1965.

## **PART II**

**SECTION 14.** Section 216-2, Revised Laws of Hawaii 1955, is hereby amended by deleting the word "two" in the second line thereof and substituting the word "four" in lieu thereof.

**SECTION 15.** Section 219-2, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"§ 219-2. Fees to be accounted for.** With the exception of such fees as are intended to reimburse officers for actual expenditures made by them, all judges', clerks', sheriffs' and deputy sheriffs' fees provided for in this chapter and accruing from any action pending in a court of record or in the several district courts shall be deposited to the credit of the general fund of the State."

**SECTION 16.** Section 220-2, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"§ 220-2. District court, salaries, expenses, etc.** The salaries of the several district magistrates and such clerks and other assistants as are provided for in Sections 220-2 to 220-6 and the expenses of the several district magistrates shall be paid by the State at the rates provided by Sections 220-2 to 220-6 or chapter 4. Each of the magistrates shall have power to appoint such additional officers or employees as may be required by such courts and for which appropria-

tions have been made by the legislature. Except as otherwise provided, such officers and employees shall be subject to the provisions of part II of chapter 3 and part I of chapter 4."

SECTION 17. Section 220-4 of the Revised Laws of Hawaii 1955, as amended, is hereby amended as follows:

(a) By amending the paragraph immediately following the paragraph providing for the salary of the district magistrate, Hamakua, North and South Kohala to read as follows:

"Clerk and reporter, district court of Hamakua, North and South Kohala, to be employed on a full-time basis paid such salaries as shall be provided for by chapter 4."

(b) By amending the paragraph immediately following the paragraph providing for the salary for the district magistrate, South Hilo, North Hilo and Puna to read as follows:

"Chief clerk, first assistant clerk and reporter, and second assistant clerk and reporter, third assistant clerk and reporter, and fourth assistant clerk and reporter, district court of South Hilo, North Hilo and Puna, whose salaries shall be as provided for by chapter 4."

SECTION 18. Section 220-7, Revised Laws of Hawaii 1955, is hereby repealed in its entirety.

SECTION 19. Section 259-7, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"§ 259-7. **District court fines, costs, etc.; disposition.** All moneys paid for costs in civil cases, and for fines and costs in criminal cases which are received or collected by any district magistrate (in cases in which no appeal has been taken and perfected to the circuit or supreme court), and all moneys paid for fines and costs which are received or collected by any sheriff or police officer upon any mittimus, execution or other writ issued by such magistrate, including bail moneys forfeited in any district court, shall be paid by the magistrate or other officer who has received or collected the same to the director of finance of the State."

SECTION 20. Section 259-8, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"§ 259-8 **Accounting for.** Clerks of any court, district magistrates and other officers who receive any fines, forfeitures or costs, imposed or awarded by any court to the use of the government, shall keep a correct account of the same, with the names of the persons from whom the same are received, and the dates when they were received, and shall pay over the same to the director of finance of the State; provided, that in any case where it is provided by any statute or by any ordinance of a county that any portion of the moneys collected by fine shall be paid to the person or persons assisting in the arrest and conviction of the violator, the clerk of the court, district magistrate or other officer who collects such fine shall pay direct to such person the share or portion of such moneys to which he is entitled, taking a receipt therefor in triplicate, one copy of which shall be filed with the state comptroller and one with the director of finance of the State."

SECTION 21. All officers and employees of the several district courts are hereby transferred with their respective functions, duties and authority to the judiciary department, and shall, upon their transfer, continue to perform their regular duties subject to the provisions of the state personnel laws and of this Part.

No officer or employee whose functions are transferred by this Part shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefit or privilege as a consequence of this Part; provided that subsequent changes in status may be made pursuant to chapters 3 and 4 of the Revised Laws of Hawaii 1955, as amended.

An employee of the district court who was employed prior to May 1, 1965, who does not have tenure and who is transferred or appointed to a civil service position as a consequence of this Part shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefits or privileges and without the necessity of examination. The foregoing shall not be construed to confer civil service tenure on an employee hired for a temporary period nor to an employee hired as a replacement for another employee who has been granted a leave of absence without pay nor to an employee hired on a provisional appointment.

SECTION 22. Within sixty days of the effective date of this Part all records, equipment, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired or held by the several district courts of the counties shall be transferred to the State without cost to the State or reimbursement to such county, and without compliance with any disposal procedures or requirements, any law to the contrary notwithstanding.

SECTION 23. This Part shall not be construed as affecting in any way the ownership of any land or improvements presently occupied or used by the several district courts; provided that whenever such premises are owned by a political subdivision of the State, or wherever the improvements have been constructed thereby, such political subdivision shall, within 120 days of the effective date of this Part, enter into an agreement with the State for the continued occupancy and use of the premises by the district courts; and provided further that during the period of such negotiations and prior to the effective date of any such agreement, the several district courts shall be authorized and permitted to continue their occupancy and use of the premises.

All financial obligations arising out of the agreements entered into as hereinabove provided shall be paid from the general fund of the State.

SECTION 24. Provisions in other laws that are inconsistent or in conflict with the provisions of this Part shall be superseded by the provisions of this Part.

SECTION 25. Appropriation. There is hereby appropriated to the judiciary department out of the general revenues of the State of

Hawaii the sum of \$860,000, or so much thereof as may be necessary to carry out the provisions of this Part.

SECTION 26. Any provision in this Part to the contrary notwithstanding, the State shall, on or before June 30, 1966, refund and deposit to the credit of any county which has a population exceeding 100,000 persons the sum of \$500,000 of the aggregate, which shall have been paid to the director of finance of the State or deposited to the credit of the general fund of the State pursuant to this Part on or before June 30, 1966, of (1) all judges', clerks', sheriffs', and deputy sheriffs' fees as provided in chapter 219 and accruing from any action pending in any of the several district courts in such county except such fees as are intended to reimburse officers for actual expenditures made by them, (2) all moneys paid for costs in civil cases, and for fines and costs in criminal cases which are received or collected by any district magistrate in such county (in cases in which no appeal has been taken and perfected to the circuit or supreme court) and (3) all moneys paid for fines and costs which are received or collected by any sheriff or police officer upon any mittimus, execution or other writ issued by such magistrate, including bail moneys forfeited in any of such district courts.

SECTION 27. Section 14 of this Part shall take effect on January 1, 1967 and shall apply to such district court magistrates as shall be appointed on or after said date, and the remaining sections of this Part shall take effect upon its approval.

SECTION 28. Subject to the foregoing, this Act shall take effect upon its approval.

(Approved May 29, 1965.) **S.B. 973.**