

A Bill for an Act Relating to Payment to the State of Hawaii Under Protest and Amending Chapter 34, Revised Laws of Hawaii 1955.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 34-24, Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Sec. 34-24. Payment to State under protest. Any disputed portion of moneys representing a claim in favor of the State may be paid to a public accountant of the State under protest in writing signed by the person making the payment, or by his agent, setting forth the grounds of protest, in which event the public accountant to whom payment is made shall hold the money paid under protest for a period of thirty days from the date of payment. The director of finance shall, at the request of the public accountant, make an administrative determination of the amount of the payment which is actually in dispute and the amount which is not in dispute. Upon such determination the public accountant shall deposit the amounts not deemed in dispute by the director of finance into the appropriate fund.

“Action to recover moneys paid under protest or proceedings to adjust the claim may be commenced by the payer or claimant against the public accountant to whom the payment was made, in a court of competent jurisdiction, within thirty days from the date of payment and in default of bringing such suit or proceeding within the thirty-day period, the money paid under protest shall be deposited into the appropriate account in the treasury of the State by the accountant and the amount deposited shall thereupon become a government realization.

“If action to recover the money paid under protest, or a proceeding to adjust the claim, is commenced within the thirty-day period, the amount paid under protest or determined by the director of finance to be the disputed portion of a claim shall be transmitted by the public accountant to the director of finance, together with the entire or comparable portions of subsequent payments, if any, when and as made with respect to the same claim if made under a protest referring to the original protest for the grounds thereof, but if subsequent payments are made under protest in any other manner these subsequent payments shall be held by the public accountant and treated as if no previous protest had been made. The director of finance shall pay all moneys so transmitted by the public accountant into a fund to be known as the ‘litigated claims fund’ pending the final decision of the cause, which may, if the court is satisfied that subsequent payments were made with respect to the same claim and under the same protest, in the manner above set forth, include the disposition of such subsequent payments. If judgment is rendered in favor of the claimant, the director of finance shall pay the claimant, out of the litigated claims fund, the amount of the judgment. If the amount of money in the litigated claims fund is insufficient or if investment of the litigated claims fund results in a deficit, the general fund of the State shall be liable for the deficiency. Interest at the rate of two per cent per annum from

the date of each payment under protest shall also be paid out of the general fund of the State on the amount of the payment under protest adjudged to be payable to the claimant. The amount to be paid shall be ascertained by the director of finance from a certified copy of the judgment which shall be his authority and warrant for payment to the claimant.”

SECTION 2. This Act shall take effect upon its approval.

(Approved June 6, 1967.)