

ACT 215

S.B. NO. 1735

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

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

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, others, and cases for overpayment of taxes, or on account of other claims for refunds, reimbursements, payments of judgments or settlements, or other payments, against the State in the amount set forth opposite their names:

REFUND OF TAXES:	<u>Amount</u>
HAWAIIAN AIRLINES, INC. No. 10350, Supreme Court Date of Judgment: April 29, 1985 Additional interest:	\$ 138,522.09
JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	<u>Amount</u>
Ahina v. Cardines Civil No. 84-218, First Circuit Amount of Settlement: No interest	\$ 222,000.00
Anderson v. Zion Civil No. 82109, First Circuit	

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Amount of Settlement: No interest		\$	25,000.00
Andrion v. Yuen Civil No. 5999(1), Second Circuit Amount of Settlement: No interest		\$	435,000.00
Baccus v. State Civil No. 85-1266, First Circuit Amount of Settlement: No interest		\$	40,000.00
Balch v. State Civil No. 07029(1), Second Circuit Amount of Settlement: No interest		\$	275,000.00
Borge v. State Civil No. 6899(1), Second Circuit Amount of Settlement: No interest		\$	75,000.00
Carvalho, R. vs. State Civil No. 7890(2), Second Circuit Amount of Settlement: No interest		\$	175,000.00
Carvalho, V. v. Barnette Civil No. 84-0164, First Circuit Amount of Arbitration Award: No interest		\$	2,995,000.00
Coachman v. State Civil No. 85-3301, First Circuit Amount of Settlement: No interest		\$	45,000.00
Cuban v. State Civil No. 86-0910, First Circuit Amount of Settlement: No interest		\$	20,000.00
Dang v. State Civil No. 7266(1), Second Circuit Amount of Settlement: No interest		\$	16,000.00
Dodds v. Amfac Civil No. 85-0032(3), Second Circuit Amount of Settlement: No interest		\$	50,000.00
DOE v. Katherine D. Civil No. 80-0582, USDC Amount of Stipulated Judgment:	\$ 45,000.00		
Interest at 10% from 8/5/86	4,450.69	\$	49,450.69
DOE v. Mr. and Mrs. A. Civil No. 86-0028, USDC Amount of Stipulated Judgment:	\$ 13,000.00		
Interest at 6.03% from 4/16/87	170.53	\$	13,170.53
Fernandez v. City & County Civil No. 83288, First Circuit			

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Amount of Settlement:		\$	5,000.00
No interest			
Fiedler v. Department of Health Civil No. 70405, First Circuit		\$	5,000.00
Amount of Settlement:			
No interest			
Hogg v. DOT Civil No. 85-2622, First Circuit		\$	8,000.00
Amount of Settlement:			
No interest			
Galapir v. Ramil Civil No. 85-0956, First Circuit		\$	10,000.00
Amount of Settlement:			
No interest			
Ishikawa v. Rafael Civil No. 81-646, First Circuit		\$	235,000.00
Amount of Settlement:			
No interest			
Kahla v. State Civil No. 85-0037, Fifth Circuit		\$	8,000.00
Amount of Settlement:			
No interest			
Kai v. State Civil No. 86-4553, First Circuit		\$	20,000.00
Amount of Settlement:			
No interest			
Kang v. Malibu Grand Prix Civil No. 85-2573, First Circuit		\$	50,000.00
Amount of Settlement:			
No interest			
Lambayan v. DOE Civil No. 81-0410, USDC			
Amount of Settlement:	\$ 3,750.00		
Interest at 5.79%			
from 12-4-86	142.77	\$	3,892.77
Libertarian Party v. Waihee Civil No. 86-0439, USDC Hawaii			
Amount of Stipulated Judgment:	\$ 4,604.00		
Interest at 5.77%			
from 11-26-86	180.50	\$	4,784.50
Limperos v. State Civil No. 7883(1), Second Circuit		\$	75,000.00
Amount of Settlement:			
No interest			
Lovato v. State Civil No. 5951(1), Second Circuit		\$	110,000.00
Amount of Settlement:			
No interest			
Madigan v. State Civil No. 5567, Second Circuit			
Amount of Judgment:	\$ 142,200.00		
Interest at 4% from			
3-17-86	7,822.95		
Costs:	2,303.64	\$	152,326.59
Mariano v. State			

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Civil No. 85-1269, First Circuit Amount of Settlement: No interest	\$ 36,000.00
McCaffrey, P. v. State Civil No. 84-1758, First Circuit Amount of Settlement: No interest	\$ 200,000.00
Nakagawa v. University of Hawaii Civil No. SCD 87-226, First Circuit Amount of Settlement: No interest	\$ 2,500.00
Neil v. Wells Civil No. 85-0990, First Circuit Amount of Settlement: No interest	\$ 10,000.00
Nuesca v. State Civil No. 85-4246, First Circuit Amount of Settlement: No interest	\$ 28,000.00
Pacific Poultry v. State Civil No. 84-0995, First Circuit Amount of Settlement: No interest	\$ 75,000.00
Park v. City and County Civil No. 45301, First Circuit Amount of Settlement: No interest	\$ 35,000.00
Rabe v. State Civil No. 84-1541, First Circuit Amount of Settlement: No interest	\$ 60,000.00
Ramelb v. State Civil No. 83227, First Circuit Amount of Settlement: No interest	\$ 97,500.00
Roe v. Wong Civil No. 83294, First Circuit Amount of Settlement: No interest	\$ 125,000.00
Rudolph v. State Civil No. 85-2889, First Circuit Amount of Settlement: No interest	\$ 8,000.00
Sammis v. State Civil No. 84-2126, First Circuit Amount of Settlement: No interest	\$ 60,000.00
Sasaki v. Americana Hotels Civil No. 84-0870, First Circuit Amount of Settlement: No interest	\$ 5,000.00
Schmidt v. State Civil No. 9406, Third Circuit Amount of Settlement: No interest	\$ 10,000.00

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Schoolcraft v. State Civil No. 7030(1), Second Circuit Amount of Settlement: No interest		\$	25,000.00
Sholtes v. Fuentes Civil No. 80176, First Circuit Amount of Settlement: No interest		\$	15,893.41
Siu v. Tokushima Civil No. 82962, First Circuit Amount of Settlement: No interest		\$	12,000.00
Smylie v. State No. 10732, Supreme Court Amount of Settlement: Interest at 4% from 5-15-86:	\$ 23,000.00  1,116.61		
		\$	24,116.61
Sotelo v. State Civil No. 85-1136, First Circuit Amount of Settlement: No interest		\$	130,000.00
Suwa v. Lee Civil No. 79863, First Circuit Amount of Settlement: No interest		\$	10,000.00
Tagiguchi v. State Civil No. 85-0110, Fifth Circuit Amount of Settlement: No interest		\$	2,500.00
Walsh v. State Criminal No. 85-1539, District Court of the First Circuit Amount of Settlement: Interest:	\$ 4,114.96 145.48		
		\$	4,260.44
Welter v. Toyota Civil No. 81082, First Circuit Amount of Settlement: No interest		\$	650,000.00
White v. State Civil No. 1407, Fifth Circuit Amount of Settlement: No interest		\$	80,000.00
Winter v. State Civil No. 87-0684-03, First Circuit Amount of Settlement: No interest		\$	20,000.00
Yamashita v. State Civil No. 77954, First Circuit Amount of Settlement: No interest		\$	15,000.00
Zack v. Amfac Civil No. 7598(2), Second Circuit Amount of Settlement: No interest		\$	30,000.00
Zukeran v. City Civil No. 84-0031, First Circuit			

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Amount of Settlement: \$ 5,000.00  
No interest

### MISCELLANEOUS CLAIMS

Ethel Mae K. Pakele \$ 4.85  
Richard Yanagida \$ 434.30

SECTION 2. The sums hereinabove appropriated shall be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in the several amounts hereinabove set forth upon warrants issued by the comptroller of the State: (1) upon vouchers approved by the director of taxation as to claims for overpayment of taxes and (2) upon vouchers approved by the attorney general as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate stated above, shall be limited to the period from the date of judgment or settlement, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases where judgment or settlement was based on chapter 662, Hawaii Revised Statutes.

SECTION 4. All unexpended and unencumbered balances of the appropriations made by section 1 of this Act as of the close of business on June 30, 1988, shall lapse into the general fund of the State.

SECTION 5. To provide for the payment of a settlement agreement negotiated by the State of Hawaii in Moseman Construction Company v. State of Hawaii, First Circuit Civil No. 85-1226, there is appropriated a sum not to exceed ~~\$2,640,000.00~~<sup>1</sup> out of general obligation bond funds of the State of Hawaii for fiscal year 1987-1988, with debt service to be paid out of the state highway fund. This appropriation shall be used for settlement of the pending claims involving the highway construction project, Wilson Bridge and Approaches, District of Wahiawa, Island of Oahu, Federal Aid Project No. BRF-BR-080-1(7).

The Moseman suit seeks damages of more than \$4,000,000. The claims are grounded on a contract awarded to Moseman Construction Co., by the state department of transportation for a federal-aid highway construction project on Oahu.

The departments of the attorney general and of transportation have evaluated the claims and consider the settlement to be in the best interest of the State. The evaluation included considerations of the projected cost of defending the claims and the potential exposure to liability.

SECTION 6. The sum appropriated in section 5 of this Act shall be expended by the department of transportation for the purposes of this Act.

SECTION 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act shall be severable.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 22, 1987.)

#### Note

1. Item vetoed and initialed "JW"