

ACT 227

S.B. NO. 785

A Bill for an Act Relating to the Honolulu Symphony.

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

SECTION 1. Section 40-88, Hawaii Revised Statutes, is amended to read as follows:

“§40-88 State of Hawaii endowment fund created. (a) There shall be established as a separate fund of the Honolulu symphony trust created by the trust agreement dated December 5, 1986, a fund to be known as the State of Hawaii endowment fund, the income and capital gains from which fund shall be used for operations of the Honolulu symphony. The State of Hawaii endowment fund shall be subject to the restrictions that:

- (1) No part of the principal amount contributed to the fund by the State or by matching grants shall be used for operations of the Honolulu symphony;

- (2) Income and capital gains from the fund shall not be distributed for use in the operations of the Honolulu symphony during any period that the value of the fund shall be less than the principal amounts contributed to the fund; and
- (3) The amounts contributed to the fund by the State shall revert to the State to the extent that matching or other conditions to the grant of the funds are not met, and the fund also shall [also] be subject to additional restrictions as may be imposed with respect to transfers of funds in future legislation appropriating sums to be contributed to the fund.

(b) Matching conditions set forth in legislation appropriating funds to be contributed to the State of Hawaii endowment fund, including conditions in previous legislation appropriating sums for the fund, shall be satisfied to the extent that any of the following shall be received prior to the date by which the funds are to be matched:

- (1) Cash, including the United States dollar equivalent of foreign currency, on the date of its contribution to the fund;
- (2) Personal property, including securities and cash value of life insurance policies, and real property transferred to the symphony, valued by appraisal, market quotations or other generally accepted valuation methods as of a date on or about the date of contribution of the property to the fund; and
- (3) All portions of pledges that are payable not later than five full years following the date by which the funds contributed by the State are to be matched; provided that any sums appropriated by the State and matched by such pledges within the matching period shall revert to the general fund to the extent the sums appropriated by the State are not matched by actual payment of such pledges within the five-year period.

(c) In the event that any funds contributed by the State are to revert to the general fund of the State, pursuant to subsections (a)(3) or (b)(3), the amount of the reversion shall be equal to the principal amount of the funds contributed by the State that have not been matched, and no part of any interest, gains, or other earnings on said principal amount shall revert to the State.

(d) The aggregate principal sum in the fund shall be invested in accordance with the provisions of the Honolulu symphony trust in a manner intended to maximize the rate of return on investment of the fund consistent with the objective of preserving the principal amounts contributed to the fund. In the event of the termination of the Honolulu symphony trust, the principal amount of all contributions made by the State to the State of Hawaii endowment fund shall be distributed to the general fund of the State and any other amounts remaining in the State of Hawaii endowment fund shall be distributed in accordance with the provisions of the Honolulu symphony trust. An annual audit by an independent auditor covering the State of Hawaii endowment fund shall be submitted to the department of accounting and general services by the Honolulu symphony."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1989.)