

ACT 130

H.B. NO. 504

A Bill for an Act Relating to State Funds.

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

SECTION 1. The legislature finds that the office of the auditor concluded in its July 2012 *Study of the Transfer of Non-general Funds to the General Fund*, Report No. 12-04, that to gain more flexibility over the budget process, new safeguards need to be built into criteria for special and revolving funds.

The purpose of this Act is to implement certain recommendations of the auditor, including requiring special and revolving funds to reflect a link between the program funded and the source of revenue.

SECTION 2. Section 23-11, Hawaii Revised Statutes, is amended to read as follows:

~~“[§23-11]~~ **New special or revolving funds.** (a) Within five days after the deadline for the introduction of bills in each legislative session, the clerks of each house of the legislature shall transmit, to the [legislative] auditor for analysis, copies of all legislative bills that were introduced in their respective houses during that session that propose to establish new special or revolving funds.

(b) The criteria to be used by the auditor in analyzing each legislative bill shall include~~[-, but not be limited to, the extent to which the fund]~~:

- (1) ~~[Serves the purpose for which it is being created; and]~~ The need for the fund, as demonstrated by:
 - (A) The purpose of the program to be supported by the fund;
 - (B) The scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and
 - (C) An explanation of why the program cannot be implemented successfully under the general fund appropriation process; and

- (2) ~~[Reflects]~~ Whether there is a clear ~~[link]~~ nexus between the ~~[benefit]~~ benefits sought and ~~[changes]~~ charges made upon the program users or beneficiaries ~~[of the program,]~~ or a clear link between the program and the sources of revenue, as opposed to serving primarily as a means to provide the program or users with an automatic means of support ~~[which]~~ that is removed from the normal budget and [appropriations] appropriation process.

Each analysis shall set forth the probable effects of the proposed fund and shall also assess alternative forms of funding.

(c) No later than thirty days prior to the adjournment sine die of each legislative session, the ~~[legislative]~~ auditor shall submit the analysis of each transmitted legislative bill to each house of the legislature.”

SECTION 3. Section 23-12, Hawaii Revised Statutes, is amended to read as follows:

“**§23-12 Review of special, revolving, and trust funds.** (a) The office of the ~~[state]~~ auditor shall report to the legislature, at each regular session, a review of special, revolving, and trust funds established to provide services rendered by any state department or establishment to other state departments or establishments or to any political subdivision of the State. The review shall include ~~[but not be limited to]:~~

- (1) An evaluation of the original intent and purpose of each fund, both as expressed by the legislature and as understood by the expending agency;
- (2) The degree to which each fund achieves the stated and claimed purposes;
- (3) An evaluation of performance standards established by the agency; and
- (4) A summary statement reflecting total fund transactions in the preceding five fiscal years, including the fund balance at the beginning of each fiscal year, total deposits and withdrawals, amount of interest earned, total expenditures made from the fund, and the ending fund balance for each fiscal year.

(b) Each special, revolving, and trust fund shall be reviewed every five years as follows:

- (1) Beginning ~~[1994]~~ 2014 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of the department of accounting and general services; the department of agriculture; the department of budget and finance; and the department of land and natural resources;
- (2) Beginning ~~[1995]~~ 2015 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of the department of the attorney general; the department of business, economic development, and tourism; and the University of Hawaii system;
- (3) Beginning ~~[1996]~~ 2016 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds within the judiciary and of the department of commerce and consumer affairs; the department of Hawaiian home lands; the department of health; and the department of human services;
- (4) Beginning ~~[1997]~~ 2017 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of

the office of the governor; the office of Hawaiian affairs; and the department of education; ~~and~~

- (5) Beginning ~~[1998]~~ 2018 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of the department of labor and industrial relations; the department of taxation; the department of human resources development; the department of public safety; and all other moneys expended in accordance with section 37-40[-]; and
- (6) Beginning 2014 and every five years thereafter, the auditor shall submit a review of the special, revolving, and trust funds of the department of transportation and the department of defense.”

SECTION 4. Section 37-52.3, Hawaii Revised Statutes, is amended to read as follows:

~~“[§37-52.3] Criteria for the establishment and continuance of special funds.~~ Special funds shall ~~[only]~~ be established only pursuant to an act of the legislature. The legislature, in establishing or reviewing a special fund to determine whether it should be continued, shall ensure that the special fund:

- (1) Serves ~~[the purpose for which it was originally established;]~~ a need, as demonstrated by:
- (A) The purpose of the program to be supported by the fund;
 - (B) The scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and
 - (C) An explanation of why the program cannot be implemented successfully under the general fund appropriation process;
- (2) Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries ~~[of the program,]~~ or a clear link between the program and the sources of revenue, as opposed to serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process;
- (3) Provides an appropriate means of financing for the program or activity~~;~~¹ that is used only when essential to the successful operation of the program or activity; and
- (4) Demonstrates the capacity to be financially self-sustaining.”

SECTION 5. Section 37-52.4, Hawaii Revised Statutes, is amended to read as follows:

~~“[§37-52.4] Criteria for the establishment and continuance of revolving funds.~~ Revolving funds shall only be established pursuant to an act of the legislature. The legislature, in establishing or reviewing a revolving fund to determine whether it should be continued, shall ensure that the revolving fund:

- (1) Serves ~~[the purpose for which it was originally established;]~~ a need, as demonstrated by:
- (A) The purpose of the program to be supported by the fund;
 - (B) The scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and
 - (C) An explanation of why the program cannot be implemented successfully under the general fund appropriation process;
- (2) Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries ~~[of the program,]~~ or a clear link between the program and the sources of revenue, as opposed to

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serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process;

- (3) Provides an appropriate means of financing for the program or activity[;] that is used only when essential to the successful operation of the program or activity; and
- (4) Demonstrates the capacity to be financially self-sustaining.”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on June 30, 2013.

(Approved June 14, 2013.)

Note

1. No strike through.