
A BILL FOR AN ACT

RELATING TO SUBSIDIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Article VII, section 4, of the state
2 constitution provides in part: "No grant of public money or
3 property shall be made except pursuant to standards provided by
4 law." Chapters 6E, 42F, 103F, 304A, and 383, Hawaii Revised
5 Statutes, implement this constitutional requirement by
6 establishing standards and criteria for the award of a grant, as
7 well as a subsidy, to a private organization or individual.

8 No substantive difference exists between a "grant" and
9 "subsidy" in the Hawaii Revised Statutes and the state
10 constitution does not require the establishment of standards for
11 the grant of a "subsidy". Therefore, the legislature finds that
12 the term "subsidy" is not necessary.

13 The purpose of this Act is to repeal references to
14 "subsidy" or "subsidies" as a type of funding award that may be
15 made to a private organization or individual for a public
16 purpose.



1 SECTION 2. Section 6E-2, Hawaii Revised Statutes, is
2 amended by amending the definition of "project" to read as
3 follows:

4 ""Project" means any activity directly undertaken by the
5 State or its political subdivisions or supported in whole or in
6 part through appropriations, contracts, grants, [~~subsidies,~~
7 loans, or other forms of funding assistance from the State or
8 its political subdivisions or involving any lease, permit,
9 license, certificate, land use change, or other entitlement for
10 use issued by the State or its political subdivisions."

11 SECTION 3. Section 6E-35, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

13 "(c) To receive state funds, the State of Hawaii Museum of
14 Monarchy History shall:

15 (1) Be licensed or accredited, in accordance with federal,
16 state, or county statutes, rules, or ordinances, to
17 conduct the activities or provide the services for
18 which funds are appropriated;

19 (2) Comply with all applicable federal and state laws
20 prohibiting discrimination against any person on the
21 basis of race, color, national origin, religion,
22 creed, sex, age, sexual orientation, or disability;



- 1 (3) Agree not to use the funds for entertainment or
- 2 lobbying activities;
- 3 (4) Be incorporated under the laws of the State;
- 4 (5) Have bylaws or policies that describe the manner in
- 5 which the activities or services for which a grant [~~er~~
- 6 ~~subsidy~~] is awarded shall be conducted or provided;
- 7 (6) Have been determined and designated to be a tax-exempt
- 8 organization by the Internal Revenue Service; and
- 9 (7) Have a governing board whose members shall have no
- 10 material conflict of interest and serve without
- 11 compensation."

12 SECTION 4. Chapter 42F, Hawaii Revised Statutes, is
13 amended by amending its title to read as follows:

14 "CHAPTER 42F

15 GRANTS [~~AND SUBSIDIES~~]"

16 SECTION 5. Section 42F-101, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By amending the definition of "recipient" to read:

19 ""Recipient" means any organization or person receiving a
20 grant [~~er subsidy~~]."

21 2. By repealing the definition of "subsidy".



1 ~~["Subsidy" means an award of state funds by the~~
2 ~~legislature, by an appropriation to a recipient specified in the~~
3 ~~appropriation, to reduce the costs incurred by the organization~~
4 ~~or individual in providing a service available to some or all~~
5 ~~members of the public."]~~

6 SECTION 6. Section 42F-102, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~§42F-102~~ **Applications for grants [and subsidies].**

9 Requests for grants ~~[and subsidies]~~ shall be submitted to the
10 appropriate standing committees of the legislature at the start
11 of each regular session of the legislature. Each request shall
12 state:

- 13 (1) The name of the requesting organization~~[+]~~ or
14 individual;
- 15 (2) The public purpose for the grant ~~[or subsidy]~~;
- 16 (3) The services to be supported by the grant ~~[or~~
17 ~~subsidy]~~;
- 18 (4) The target group; and
- 19 (5) The cost of the grant ~~[or subsidy]~~ and the budget."

20 SECTION 7. Section 42F-103, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§42F-103 Standards for the award of grants [and
2 ~~subsidies~~]. (a) Grants [~~and subsidies~~] shall be awarded only
3 to individuals who, and organizations that:

4 (1) Are licensed or accredited, in accordance with
5 federal, state, or county statutes, rules, or
6 ordinances, to conduct the activities or provide the
7 services for which a grant [~~or subsidy~~] is awarded;

8 (2) Comply with all applicable federal and state laws
9 prohibiting discrimination against any person on the
10 basis of race, color, national origin, religion,
11 creed, sex, age, sexual orientation, or disability;

12 (3) Agree not to use state funds for entertainment or
13 lobbying activities; and

14 (4) Allow the state agency to which funds for the grant
15 [~~or subsidy~~] were appropriated for expenditure,
16 legislative committees and their staff, and the
17 auditor full access to their records, reports, files,
18 and other related documents and information for
19 purposes of monitoring, measuring the effectiveness,
20 and ensuring the proper expenditure of the grant [~~or~~
21 ~~subsidy~~].



1 (b) In addition, a grant [~~or subsidy~~] may be made to an
2 organization only if the organization:

- 3 (1) Is incorporated under the laws of the State; and
- 4 (2) Has bylaws or policies that describe the manner in
5 which the activities or services for which a grant [~~or~~
6 ~~subsidy~~] is awarded shall be conducted or provided.

7 (c) Further, a grant [~~or subsidy~~] may be awarded to a
8 nonprofit organization only if the organization:

- 9 (1) Has been determined and designated to be a nonprofit
10 organization by the Internal Revenue Service; and
- 11 (2) Has a governing board whose members have no material
12 conflict of interest and serve without compensation.

13 (d) If a grant [~~or subsidy~~] is used by an organization for
14 the acquisition of land, when the organization discontinues the
15 activities or services on the land acquired for which the grant
16 [~~or subsidy~~] was awarded and disposes of the land in fee simple
17 or by lease, the organization shall negotiate with the expending
18 agency for a lump sum or installment repayment to the State of
19 the amount of the grant [~~or subsidy~~] used for the acquisition of
20 the land. This restriction shall be registered, recorded, and
21 indexed in the bureau of conveyances or with the assistant
22 registrar of the land court as an encumbrance on the property.



1 Amounts received from the repayment of a grant [~~or subsidy~~]
2 under this subsection shall be deposited into the general fund."

3 SECTION 8. Section 42F-104, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§42F-104[+] **Contracts for grants [~~and subsidies~~]**. An
6 appropriation for a grant [~~or subsidy~~] shall be disbursed by a
7 contract between the state agency designated the expending
8 agency for the appropriation by the legislature, and the
9 recipient of the grant [~~or subsidy~~]. The contract shall be
10 effective as of the first day of the fiscal year for which the
11 funds for the grant [~~or subsidy~~] are appropriated[7]; provided
12 that up to one-fourth of the total amount appropriated may be
13 disbursed prior to the execution of the contract."

14 SECTION 9. Section 42F-105, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[+]§42F-105[+] **Allotment.** Contracts to disburse and
17 appropriations for grants [~~and subsidies~~] shall be subject to
18 the allotment system generally applicable to all appropriations
19 made by the legislature."

20 SECTION 10. Section 42F-106, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[+]§42F-106[+] **Monitoring and evaluation.** Every grant
2 [~~or subsidy~~] shall be monitored by the expending agency to
3 ensure compliance with this chapter and the public purpose and
4 legislative intent of the grant [~~or subsidy~~]."

5 SECTION 11. Section 46-15.1, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) Any law to the contrary notwithstanding, any county
8 may:

- 9 (1) Authorize and issue bonds under chapter 47 and chapter
10 49 to provide moneys to carry out the purposes of this
11 section or section 46-15.2, including the satisfaction
12 of any guarantees made by the county pursuant to this
13 section;
- 14 (2) Appropriate moneys of the county to carry out the
15 purposes of this section;
- 16 (3) Obtain insurance and guarantees from the State or the
17 United States, or [~~subsidies~~] grants from either;
- 18 (4) Designate, after holding a public hearing on the
19 matter and with the approval of the respective
20 council, any lands owned by it for the purposes of
21 this section;



- 1 (5) Provide interim construction loans to partnerships of
- 2 which it is a partner and to developers whose projects
- 3 qualify for federally assisted project mortgage
- 4 insurance, or other similar programs of federal
- 5 assistance for persons of low and moderate income; and
- 6 (6) Adopt rules pursuant to chapter 91 as are necessary to
- 7 carry out the purposes of this section."

8 SECTION 12. Section 103-53, Hawaii Revised Statutes, is
 9 amended by amending subsection (e) to read as follows:

- 10 "(e) This section shall not apply to:
- 11 (1) Any procurement of less than \$25,000 or that is
- 12 considered a small purchase under section 103D-305 and
- 13 any state or county department contract of less than
- 14 \$25,000;
- 15 (2) Emergency purchases for the procurement of goods,
- 16 services, or construction under section 103D-307,
- 17 disaster relief under chapter 127, or a civil defense
- 18 emergency under chapter 128;
- 19 (3) Grants [~~and subsidies~~] disbursed by a state agency
- 20 pursuant to chapter 42F or in accordance with
- 21 standards provided by law as required by article VII,
- 22 section 4, of the state constitution, or made by the



- 1 counties pursuant to their respective charters or
2 ordinances;
- 3 (4) Contracts or agreements between government agencies;
- 4 (5) Contracts or agreements to disburse funds:
- 5 (A) To make payments to or on behalf of public
6 officers and employees for salaries, fringe
7 benefits, professional fees, and reimbursements;
- 8 (B) To satisfy obligations required to be paid by
9 law, including fees, judgments, settlements, and
10 other payments for resolving claims;
- 11 (C) To make refunds or return funds held by the State
12 or county as trustee, custodian, or bailee;
- 13 (D) For entitlement programs, including public
14 assistance, unemployment, and workers'
15 compensation programs, established by state or
16 federal law;
- 17 (E) For deposit, investment, or safekeeping,
18 including sums to pay expenses related to their
19 deposit investment, or safekeeping;
- 20 (F) For loans under government-administered loan
21 programs; or



1 (G) To make periodic, recurring payments for utility
2 services;

3 (6) Rent for the use or occupation of the premises and
4 facilities at Aloha Stadium, the convention center, or
5 any other state or county large spectator events
6 facility; and

7 (7) Contracts or agreements of the Hawaii health systems
8 corporation and its regional system boards."

9 SECTION 13. Section 103D-102, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) Notwithstanding subsection (a), this chapter shall
12 not apply to contracts by governmental bodies:

13 (1) Solicited or entered into before July 1, 1994, unless
14 the parties agree to its application to a contract
15 solicited or entered into prior to July 1, 1994;

16 (2) To disburse funds, irrespective of their source:

17 (A) For grants [~~or subsidies~~] as [~~these terms are~~]
18 defined in section 42F-101, made by the State in
19 accordance with standards provided by law as
20 required by article VII, section 4, of the state
21 constitution; or by the counties pursuant to
22 their respective charters or ordinances;



- 1 (B) To make payments to or on behalf of public
- 2 officers and employees for salaries, fringe
- 3 benefits, professional fees, or reimbursements;
- 4 (C) To satisfy obligations that the State is required
- 5 to pay by law, including paying fees, permanent
- 6 settlements, subsidies, or other claims, making
- 7 refunds, and returning funds held by the State as
- 8 trustee, custodian, or bailee;
- 9 (D) For entitlement programs, including public
- 10 assistance, unemployment, and workers'
- 11 compensation programs, established by state or
- 12 federal law;
- 13 (E) For dues and fees of organizations of which the
- 14 State or its officers and employees are members,
- 15 including the National Association of Governors,
- 16 the National Association of State and County
- 17 Governments, and the Multi-State Tax Commission;
- 18 (F) For deposit, investment, or safekeeping,
- 19 including expenses related to their deposit,
- 20 investment, or safekeeping;
- 21 (G) To governmental bodies of the State;



- 1 (H) As loans, under loan programs administered by a
- 2 governmental body; and
- 3 (I) For contracts awarded in accordance with chapter
- 4 103F;
- 5 (3) To procure goods, services, or construction from a
- 6 governmental body other than the University of Hawaii
- 7 bookstores, from the federal government, or from
- 8 another state or its political subdivision;
- 9 (4) To procure the following goods or services which are
- 10 available from multiple sources but for which
- 11 procurement by competitive means is either not
- 12 practicable or not advantageous to the State:
- 13 (A) Services of expert witnesses for potential and
- 14 actual litigation of legal matters involving the
- 15 State, its agencies, and its officers and
- 16 employees, including administrative quasi-
- 17 judicial proceedings;
- 18 (B) Works of art for museum or public display;
- 19 (C) Research and reference materials including books,
- 20 maps, periodicals, and pamphlets, which are
- 21 published in print, video, audio, magnetic, or
- 22 electronic form;



- 1 (D) Meats and foodstuffs for the Kalaupapa
2 settlement;
- 3 (E) Opponents for athletic contests;
- 4 (F) Utility services whose rates or prices are fixed
5 by regulatory processes or agencies;
- 6 (G) Performances, including entertainment, speeches,
7 and cultural and artistic presentations;
- 8 (H) Goods and services for commercial resale by the
9 State;
- 10 (I) Services of printers, rating agencies, support
11 facilities, fiscal and paying agents, and
12 registrars for the issuance and sale of the
13 State's or counties' bonds;
- 14 (J) Services of attorneys employed or retained to
15 advise, represent, or provide any other legal
16 service to the State or any of its agencies, on
17 matters arising under laws of another state or
18 foreign country, or in an action brought in
19 another state, federal, or foreign jurisdiction,
20 when substantially all legal services are
21 expected to be performed outside this State;
- 22 (K) Financing agreements under chapter 37D; and



1 (L) Any other goods or services which the policy
2 board determines by rules or the chief
3 procurement officer determines in writing is
4 available from multiple sources but for which
5 procurement by competitive means is either not
6 practicable or not advantageous to the State; and

7 (5) Which are specific procurements expressly exempt from
8 any or all of the requirements of this chapter by:

9 (A) References in state or federal law to provisions
10 of this chapter or a section of this chapter, or
11 references to a particular requirement of this
12 chapter; and

13 (B) Trade agreements, including the Uruguay Round
14 General Agreement on Tariffs and Trade (GATT)
15 which require certain non-construction and non-
16 software development procurements by the
17 comptroller to be conducted in accordance with
18 its terms."

19 SECTION 14. Section 103F-101, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) This chapter shall apply to all contracts made by
22 state agencies and may be used by county agencies to provide



1 health or human services to Hawaii's residents; provided that
2 this chapter shall not apply to:

3 (1) Contracts to award grants [~~or subsidies~~] of state
4 funds appropriated by the legislature to a specific
5 organization or individual;

6 (2) Transactions between or among government agencies,
7 including but not limited to agreements, contracts,
8 and grants;

9 (3) Transactions expressly exempt from the requirements of
10 this chapter; and

11 (4) Transactions that the chief procurement officer
12 determines are exempt under rules adopted by the
13 policy board."

14 SECTION 15. Section 103F-409, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) A standard contract form for health and human
17 services, including purchases[~~r~~] and grants, [~~and subsidies,~~]
18 shall be provided to governmental bodies by the attorney general
19 that may be utilized, at the option of the head of the
20 purchasing agency, without requiring prior approval as to form
21 by the attorney general so long as no substantive changes are
22 made to the form and the contents are appropriate."



1 SECTION 16. Section 261-6, Hawaii Revised Statutes, is
2 amended by amending subsection (g) to read as follows:

3 "(g) The Hawaii wing, civil air patrol shall comply with
4 chapter 42F in its application for grants [~~and subsidies~~];
5 execute an annual contract with the department of transportation
6 by the third day of July; and submit to the department of
7 transportation an annual expenditure plan to ensure the
8 disbursement of funds by the tenth day of July, October,
9 January, and April of each fiscal year."

10 SECTION 17. Section 302D-28, Hawaii Revised Statutes, is
11 amended by amending subsection (d) to read as follows:

12 "(d) Charter schools shall be eligible for all federal
13 financial support to the same extent as all other public
14 schools. The department shall provide all authorizers with all
15 state-level federal grant proposals submitted by the department
16 that include charter schools as potential recipients and timely
17 reports on state-level federal grants received for which charter
18 schools may apply or are entitled to receive. Federal funds
19 received by the department for charter schools shall be
20 transferred to authorizers for distribution to the charter
21 schools they authorize in accordance with the federal
22 requirements. If administrative services related to federal



1 grants [~~and subsidies~~] are provided to the charter school by the
2 department, the charter school shall reimburse the department
3 for the actual costs of the administrative services in an amount
4 that shall not exceed six per cent of the charter school's
5 federal grants [~~and subsidies~~].

6 Any charter school shall be eligible to receive any
7 supplemental federal grant or award for which any other public
8 school may submit a proposal, or any supplemental federal grants
9 limited to charter schools; provided that if department
10 administrative services, including funds management, budgetary,
11 fiscal accounting, or other related services, are provided with
12 respect to these supplemental grants, the charter school shall
13 reimburse the department for the actual costs of the
14 administrative services in an amount that shall not exceed six
15 per cent of the supplemental grant for which the services are
16 used.

17 All additional funds generated by the governing boards,
18 that are not from a supplemental grant, shall be held separate
19 from allotted funds and may be expended at the discretion of the
20 governing boards."

21 SECTION 18. Section 304A-2351, Hawaii Revised Statutes, is
22 amended by amending subsection (c) to read as follows:



1 "(c) Neither the trust established by the university
2 pursuant to subsection (a), nor any trustee thereof, shall be a
3 department, office, agency, board, commission, bureau,
4 instrumentality, committee, authority, or office of the State or
5 any of its political subdivisions, or otherwise deemed a public
6 or quasi-public entity, nor shall the initial funding of, or a
7 transfer to, the trust constitute a state grant [~~or subsidy~~].
8 The trust shall not be subject to laws or rules governing state
9 and other public or quasi-public entities, including but not
10 limited to chapters 23, 36, 37, 38, 40, 42F, 76, 78, 84, 89, 91,
11 92, 92F, 103, and 103D."

12 SECTION 19. Section 321-442, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) In addition to any other power or duty prescribed by
15 law or in this part, the director, through the department, may
16 maintain an emergency response stockpile to prepare for or
17 respond to a CBRNE event. The director may undertake all lawful
18 activities necessary to carry out this part, including but not
19 limited to adopting rules pursuant to chapter 91, disbursing
20 funds for grants [~~or subsidies~~] pursuant to chapter 42F, and
21 procuring goods or services pursuant to chapter 103D or 103F."



1 SECTION 20. Section 352D-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§352D-6 Organizational structure.** The office of youth
4 services shall be composed of such divisions and sections as are
5 deemed necessary by the director to:

6 (1) Provide diagnostic evaluation, treatment, and
7 rehabilitation services for all youths referred to
8 services provided by the office or placed in the
9 office's custody by the family court;

10 (2) Provide supervision and counseling services for youth
11 in shelter or correctional facilities under the
12 office's jurisdiction, including community-based
13 facilities;

14 (3) Provide educational, vocational-educational, and other
15 programs to effectively occupy the time of the youth
16 placed in a facility under the office's jurisdiction
17 which promote the development of self-esteem and
18 useful skills to prepare youths in becoming productive
19 members of the community;

20 (4) Provide continuous program planning, development, and
21 coordination of youth services, including the
22 coordination with other government and private social



1 service agencies that work with youths to ensure that
2 a full-range of programs is available and that such
3 programs are consistent with the policy of this
4 chapter and are not unnecessarily duplicative or
5 conflicting;

6 (5) Provide prevention services to include a comprehensive
7 intake/assessment and information/referral system
8 throughout the State which shall access services to
9 youth and their families;

10 (6) Provide a case management system based on the
11 individual needs of youth which shall provide for in-
12 depth client assessment, appropriate service planning,
13 and client advocacy;

14 (7) Provide for the implementation of chapter 352, youth
15 correctional facilities and other needed correctional
16 services, including ensuring that these facilities and
17 services meet the present and future needs of youth
18 under the jurisdiction of the youth correctional
19 facilities;

20 (8) Facilitate the development of and, when appropriate,
21 provide for training programs for persons offering
22 services to youth at risk;



- 1 (9) Provide for technical assistance and consultation to
2 providers and potential providers;
- 3 (10) Seek, apply for, and encourage the use of all federal
4 funds for youth services and facilitate the
5 coordination of federal, state, and local policies
6 concerning services for youth;
- 7 (11) Prepare and submit an annual report to the governor
8 and the legislature. This report shall include, but
9 not be limited to, a review of the status of youth
10 services within the State, recommendations for
11 priorities for the development and coordination of
12 youth services; and
- 13 (12) Monitor, evaluate, and audit all grants [~~subsidies~~]
14 under chapter 42F, and purchase of services under
15 chapter [42D] 103F which relate to the office of youth
16 services."

17 SECTION 21. Section 383-128, Hawaii Revised Statutes, is
18 amended by amending subsections (f) and (g) to read as follows:

19 "(f) For purposes of grants [~~and subsidies~~] awarded under
20 subsection (d), any organization requesting a grant [~~or subsidy~~]
21 shall:



1 (1) Be licensed and accredited, as applicable, under the
2 laws of the State;

3 (2) Have at least one year's experience with the project
4 or in the program area for which the request or
5 proposal is being made; except that the director may
6 grant an exception where the project or program area
7 deals with new industry training; and

8 (3) Be, employ, or have under contract persons who are
9 qualified to engage in the program or activity to be
10 funded by the State.

11 (g) Recipients of grants [~~or subsidies~~] shall be subject
12 to the following conditions:

13 (1) Any organization requesting a grant [~~or subsidy~~] shall
14 submit its request together with all the information
15 required by the director on an application form
16 provided by the department;

17 (2) The recipient of a grant [~~or subsidy~~] shall not use
18 public funds for purposes of entertainment or
19 perquisites;

20 (3) The recipient of a grant [~~or subsidy~~] shall comply
21 with applicable federal, state, and county laws;



- 1 (4) The recipient of a grant [~~or subsidy~~] shall comply
2 with any other requirements the director may
3 prescribe;
- 4 (5) The recipient of a grant [~~or subsidy~~] shall allow the
5 director, the legislative bodies, and the legislative
6 auditor full access to records, reports, files, and
7 other related documents so that the program,
8 management, and fiscal practices of the grant
9 recipient may be monitored and evaluated to assure the
10 proper and effective expenditure of public funds;
- 11 (6) Every grant [~~or subsidy~~] shall be monitored according
12 to rules established by the director to ensure
13 compliance with this section; and
- 14 (7) Any recipient of a grant [~~or subsidy~~] under this
15 section who withholds or omits any material fact or
16 deliberately misrepresents facts to the director or
17 who violates the terms of the recipient's contract
18 shall be in violation of this section and, in addition
19 to any other penalties provided by law, shall be
20 prohibited from applying for a grant [~~or subsidy~~]
21 under this section for a period of five years from the
22 date of termination."



1 SECTION 22. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 23. This Act shall take effect upon its approval;
4 provided that the amendment made to section 46-15.1(c), Hawaii
5 Revised Statutes, by section 11 of this Act shall not be
6 repealed when section 46-15.1 is reenacted on June 30, 2015,
7 pursuant to section 3 of Act 141, Session Laws of Hawaii 2009.



Report Title:

Subsidy; Deletion

Description:

Deletes references to "subsidy" in the chapters establishing standards and criteria for the award of grants to private organizations and individuals. Makes conforming amendments.
(CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

