



GOV. MSG. NO. 4

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

March 1, 2024

✓ The Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki
Speaker of the House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Aloha Senate President Kouchi and Speaker Saiki:

In accordance with Section 9, Article VII, of the Constitution of the State of Hawai'i, I respectfully recommend Senate Bill No. 582, S.D. 2, Relating to State Budget, for immediate passage.

The attached proposed S.D. 2 includes the following provisions:

1. A general fund appropriation of \$297,000,000 to immediate expenses in FY 24 for non-congregate housing and expenses for individuals impacted by the wildfires who have been classified as not eligible for Federal Emergency Management Agency assistance.
2. A general fund appropriation of \$65,000,000 to cover the State's contribution to the One Ohana bank trust account to compensate victims of the Maui wildfires.
3. Repeal of the \$350,000,000 general obligation bond appropriation for the Other Post-Employment Benefits Trust Fund originally made in Act 247, SLH 2022.

Your consideration of this request is appreciated.

Mahalo,

Josh Green, M.D.
Governor, State of Hawai'i

Attachment

1 for specific purposes and capital improvement projects, to the
2 department of budget and finance. The department of budget and
3 finance subsequently transferred the \$164.1 million to the major
4 disaster fund along with another \$30 million that the governor
5 authorized pursuant to section 5 of Act 164, Session Laws of
6 Hawaii 2023. With the existing \$5 million major disaster fund
7 appropriation, a total of \$199.1 million has been allocated to
8 the major disaster fund for initial wildfire response and
9 recovery, including the expected state's share of noncongregate
10 housing and debris clean-up costs initially being paid by the
11 Federal Emergency Management Agency (FEMA). These steps
12 provided what was thought to be sufficient funding for the state
13 to address the expected fiscal year 2023-2024 response and
14 recovery expenses as of the beginning of January 2024.

15 The legislature further finds that FEMA executed the
16 contract for debris clean-up costs, and the state executed the
17 contracts for noncongregate housing and related expenses for
18 room and board of wildfire victims displaced from their homes.
19 The state's expenses for noncongregate housing and other
20 expenses including expenses for individuals impacted by the
21 wildfires who have been classified as not eligible for FEMA
22 assistance is expected to exceed the amounts previously

1 transferred to the major disaster fund. Because the state
2 executed these contracts, the state is responsible for making
3 payment and will seek reimbursement from FEMA for eligible
4 costs. Issues have recently arisen over what costs are eligible
5 and the timeline in which the state will be reimbursed for
6 eligible costs is currently not clear. The state will require
7 additional funds to cover these immediate expenses in fiscal
8 year 2023-2024.

9 The purpose of this Act is to make an emergency
10 appropriation to cover the state's immediate expenses incurred
11 in the Hawaii wildfires disaster response efforts.

12 SECTION 3. There is appropriated out of the general
13 revenues of the State of Hawaii to the department of budget and
14 finance, departmental administration and budget division
15 (BUF101), the sum of \$297,000,000 or so much thereof as may be
16 necessary for fiscal year 2023-2024 for expenses related to
17 noncongregate housing and other costs relating to the provision
18 of food, housing or other assistance for individuals affected by
19 the Hawaii wildfires disaster that began on August 8, 2023;
20 provided that any unexpended or unencumbered balance shall lapse
21 to the general fund on June 30, 2026; provided that any law to
22 the contrary notwithstanding, the governor may authorize the

1 transfer of these funds to the major disaster fund established
2 by section 127A-16, Hawaii Revised Statutes.

3 PART II

4 SECTION 4. The legislature finds that the state's
5 contribution of public funds to the one ohana bank trust account
6 is for the compromise and settlement of claims to compensate
7 individuals or their personal representatives affected by
8 serious physical injury or death caused by the Maui wildfires
9 and serves a public purpose.

10 The purpose of this Act is to make an emergency
11 appropriation to fund the state's contribution to the one ohana
12 bank trust account for the compromise and settlement of claims
13 caused by the Maui wildfires.

14 SECTION 5. The legislature finds and declares that the
15 contribution of state moneys to the one ohana bank trust account
16 under this Act for the compromise and settlement of claims is in
17 the public interest and for the public health, safety, and
18 general welfare of the State for the following reasons:

19 (1) The state recognizes the devastating impact of the
20 Maui wildfires on its residents, resulting in physical
21 injury and loss of life;

- 1 (2) It is imperative for the state to respond with
2 compassion and support for those affected by the Maui
3 wildfires, ensuring that victims or their personal
4 representatives are provided with fair and just
5 compensation on a timely basis;
- 6 (3) The state's contribution to the one ohana bank trust
7 account is for the compromise and settlement of claims
8 for those who have lost loved ones or suffered serious
9 physical injuries in the Maui wildfires.
10 Participation in seeking compensation from the one
11 ohana bank trust account is purely voluntary;
- 12 (4) The legislature recognizes that contributors to the
13 one ohana bank trust account besides the state include
14 among others, the county of Maui, Hawaiian Electric
15 Company, the Kamehameha Schools, Charter
16 Communications/Spectrum, Hawaiian Telcom, and the West
17 Maui Land Company;
- 18 (5) The legislature recognizes the one ohana bank trust
19 account as an efficient mechanism to address this
20 urgent and exceptional situation, and understands the
21 one ohana bank trust account's unique ability to
22 provide assistance to those in need;

1 (6) The legislature recognizes the complexity and
2 challenges of tort litigation and finds it prudent to
3 provide an alternative through the one ohana bank
4 trust account of streamlining the compensation process
5 for those impacted by the Maui wildfires;

6 (7) The legislature finds that it is in the public
7 interest to encourage swift and fair resolution to
8 claims arising from the Maui wildfires, thus
9 alleviating the burden on the judicial system, and
10 fostering community support, unity, and recovery in
11 the aftermath of the Maui wildfires; and

12 (8) The legislature recognizes that individuals seeking
13 compensation from the one ohana bank trust account
14 will be required to release the contributing parties
15 to the fund from further liability and are willingly
16 waiving their rights to pursue damages through tort
17 litigation for wrongful death or personal injury
18 claims, contributing to a more efficient resolution
19 process.

20 Consequently, the legislature finds and declares that the
21 public purpose is served by authorizing the expenditure of
22 public moneys as the state's contribution to the one ohana bank

1 trust account for the compromise and settlement of claims to
2 provide an alternative for compensation to any individual or
3 personal representative of a deceased individual who suffered
4 serious physical injury or died as a result of the Maui
5 wildfires, thus offering a timely and compassionate resolution
6 to those affected by the Maui wildfires while relieving the
7 burden on the judicial system and contributing to the rebuilding
8 of lives and community.

9 SECTION 6. Any individual who receives compensation from
10 the one ohana fund under this Act shall waive the right to sue
11 for damages related to physical injury or death resulting from
12 the Maui wildfires, recognizing the one ohana fund as an
13 alternative to tort litigation.

14 SECTION 7. The department of the attorney general shall
15 submit a report to the legislature no later than twenty days
16 prior to the convening of each regular session on:

- 17 (1) A listing of claims and the amounts paid by the one
18 ohana bank trust account for the calendar year;
- 19 (2) A listing of the administrative costs incurred one
20 ohana bank trust account for the calendar year; and

1 (3) A listing of contributors and their contribution
2 amounts to the one ohana bank trust account received
3 during the calendar year.

4 SECTION 8. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$65,000,000, or so
6 much thereof as may be necessary for fiscal year 2023-2024, to
7 fund the state's contribution to the one ohana bank trust
8 account for the compromise and settlement of claims to
9 compensate individuals or personal representatives affected by
10 serious physical injury or death caused by the Maui wildfires;
11 provided that the moneys appropriated in this section shall not
12 lapse at the end of the fiscal year for which the appropriation
13 is made; and provided further that any moneys that remain
14 unencumbered on June 30, 2025, shall lapse on that date.

15 SECTION 9. The sum appropriated shall be expended by the
16 department of the attorney general for the purposes of this Act.

17 PART III

18 SECTION 10. Act 247, Session Laws of Hawaii 2022, is
19 amended by amending section 1 to read as follow:

20 ~~"SECTION 1. The director of finance is authorized to issue~~
21 ~~general obligation bonds in the sum of \$300,000,000 or so much~~
22 ~~thereof as may be necessary and the same sum or so much thereof~~

1 ~~as may be necessary is appropriated for fiscal year 2022-2023~~
2 ~~for the other post-employment benefits trust fund governed by~~
3 ~~section 87A-42, Hawaii Revised Statutes, to pay or prepay the~~
4 ~~State's other post-employment benefits liability; provided that:~~

5 ~~(1) The appropriation made for this transaction as~~
6 ~~authorized by this section shall not lapse at the end~~
7 ~~of the fiscal year for which the appropriation is~~
8 ~~made;~~

9 ~~(2) All moneys from the appropriation unencumbered as of~~
10 ~~June 30, 2024, shall lapse as of that date; and~~

11 ~~(3) The general obligation bonds authorized by this~~
12 ~~section shall be issued in the sole discretion of the~~
13 ~~director of finance; provided that:~~

14 ~~(A) To determine the annual required contribution, a~~
15 ~~preliminary annual required contribution to the~~
16 ~~trust fund shall be developed that treats the~~
17 ~~outstanding bond balance as part of the trust~~
18 ~~fund's unfunded actuarial accrued liability. The~~
19 ~~net cash contribution required to be contributed~~
20 ~~to the trust fund shall be the greater of:~~

21 ~~(i) The preliminary annual required~~
22 ~~contribution less the related general~~

- 1 ~~obligation bond payment for the respective~~
2 ~~year, or~~
- 3 (ii) ~~The annual required contribution amount~~
4 ~~calculated under section 87A-42(f)(2),~~
5 ~~Hawaii Revised Statutes, without any~~
6 ~~special consideration given to the~~
7 ~~outstanding balance of the general~~
8 ~~obligation bonds or any related general~~
9 ~~obligation bond payments, for the~~
10 ~~respective year,~~
- 11 (B) ~~Entities shall only be permitted to issue general~~
12 ~~obligation bonds if the all-in true interest cost~~
13 ~~of the bonds is at least three hundred basis~~
14 ~~points less than the assumed rate of return of~~
15 ~~the trust fund, to which the proceeds will be~~
16 ~~contributed,~~
- 17 (C) ~~General obligation bonds shall not be issued as a~~
18 ~~means for addressing budget shortfalls related to~~
19 ~~contributions required by law; and~~
- 20 (D) ~~General obligation bonds shall only be issued as~~
21 ~~a means to produce long term savings. Repealed."~~

1 PART IV

2 SECTION 11. In accordance with section 9 of article VII of
3 the Constitution of the State of Hawaii and sections 37-91 and
4 37-93, Hawaii Revised Statutes, the legislature has determined
5 that the general fund expenditure ceiling for fiscal
6 year 2023-2024 has already been exceeded by \$1,005,342,735 or
7 9.4 per cent. The appropriations contained in this Act will
8 cause the state general fund expenditure ceiling for fiscal
9 year 2023-2024 to be further exceeded by \$ or per
10 cent. This declaration takes into account the additional
11 general fund appropriation(s) authorized for fiscal
12 year 2023-2024 in this Act only. The reasons for exceeding the
13 general fund expenditure ceiling are that:

- 14 (1) The appropriations made in this Act are necessary to
15 serve the public interest; and
16 (2) The appropriations made in this Act meet the needs
17 addressed by this Act.

18 SECTION 12. This Act shall take effect upon its approval.

Report Title:

Wildfires; Expenditure Ceiling; Emergency Appropriation

Description:

Appropriates funds to support the State's response to the August 2023 wildfires that affected the county of Maui; Makes an appropriation to the One Ohana bank trust account to compensate victims of the Maui wildfires; Repeals G.O. Bond appropriation for the Other Post-Employment Benefits Trust Fund.

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