

S.B. NO. 2700

JAN 25 2012

A BILL FOR AN ACT

MAKING EMERGENCY APPROPRIATIONS FOR CLAIMS AGAINST THE STATE,
ITS OFFICERS, OR ITS EMPLOYEES.

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

PART I

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Hawaii State Constitution.

SECTION 2. A critical fiscal emergency exists. During the regular session of 2011, a request was made for funds to satisfy judgments and settlements of claims against the State for fiscal year 2010-2011, but those funds were not appropriated. Therefore, it is necessary to seek these emergency appropriations to satisfy those judgments and settlements of claims and to avoid further legal action and expense.

SECTION 3. The following sums or so much thereof as may be necessary for fiscal year 2011-2012 are appropriated out of the general revenues of the State of Hawaii to the department of the attorney general for the purpose of satisfying claims for legislative relief as to the following named persons, firms,

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1 corporations, and entities, for claims against the State or its
 2 officers or employees for the overpayment of taxes, or for
 3 refunds, reimbursements, payments of judgments or settlements,
 4 or other liabilities, in the amounts set forth opposite their
 5 names:

6 **JUDGMENTS AGAINST THE STATE**
 7 **AND SETTLEMENTS OF CLAIMS:**
 8

AMOUNT

9 1. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES:

10	Mediation of Hilo Judiciary Complex	\$ 2,141,098.00
11	Construction Claims	Settlement
12		<hr/>

13	SUBTOTAL:	\$ 2,141,098.00
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14 2. DEPARTMENT OF EDUCATION:

15	In the Matter of the Arbitration Between	\$ 12,298.00
16	Hawaii State Teachers Association, AFSME	Settlement
17	Local 152, AFL-CIO and Kihei Public Charter	
18	School (Grievance of Marty Bender)	
19		

20	Jemwai v. Keau, et al.,	\$ 252,500.00
21	Civil No. 09-1-0095-01, First Circuit	Settlement
22		

23	John Doe Parent, et al. v. State of Hawaii,	\$ 70,700.00
24	et al., Civil No. 10-1-0505-03, First Circuit	Settlement
25		

26	McCauley v. Inouye, et al.	\$ 136,350.00
27	Civil No. 07-01-206K, Third Circuit	Settlement
28		
29		<hr/>

30	SUBTOTAL:	\$ 471,848.00
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31 3. HAWAII HEALTH SYSTEMS CORPORATION:

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1	United Public Workers AFSCME, Local 646,	\$	19,511.73
2	AFL-CIO and State of Hawaii, et al.		Judgment
3	S.P. No. 09-1-0305, First Circuit		
4			
5	SUBTOTAL:	\$	19,511.73
6			
7	4. DEPARTMENT OF HEALTH:		
8			
9	Segundo v. Frederick, et al.	\$	328,250.00
10	Civil No. 08-1-0106, Third Circuit		Settlement
11			
12	SUBTOTAL:	\$	328,250.00
13	5. DEPARTMENT OF HUMAN SERVICES:		
14			
15	Robinson, et al. v. Plourde, et al.	\$	20,929.57
16	Civil No. 04-00672 DAE-KSC, USDC		Order
17			
18	Sound v. Koller, et al.	\$	70,124.05
19	Civil No. 09-00409 JMS/KSC, USDC		Settlement
20			
21			
22	SUBTOTAL:	\$	91,053.62
23	6. DEPARTMENT OF LAND AND NATURAL RESOURCES:		
24			
25	Kinney v. Department of Land and Natural	\$	54,169.39
26	Resources, et al.,		Judgment
27	Civil No. 03-1-0010, Fifth Circuit		
28			
29	Santiago v. County of Kauai, et al.	\$	18,180.00
30	Civil No. 08-1-0210, Fifth Circuit		Settlement
31			
32			
33	SUBTOTAL:	\$	72,349.39
34	7. DEPARTMENT OF PUBLIC SAFETY:		
35			
36	Botelho, et al. v. State of Hawaii, et al.	\$	277,750.00
37	Civil No. 06-00096, USDC		Settlement

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1	Itagaki v. Frank, et al.	\$	83,830.00
2	Civil No. 09-00110 SOM-RLP, USDC		Settlement
3			
4	Kuresa v. Frank, et al.	\$	25,250.00
5	Civil No. 09-1-0303-02, First Circuit		Settlement
6			
7	Maier v. State of Hawaii, et al.	\$	20,200.00
8	Civil No. 10-00449 JMS-BMK, USDC		Settlement
9			
10	Tenney v. State of Hawaii , et al.	\$	150,995.00
11	Civil No. 09-1-0190-01, First Circuit		Settlement
12			
13	SUBTOTAL:	\$	558,025.00
14	8. MISCELLANEOUS CLAIMS:		
15	Tom Ishigo	\$	1,852.64
16	Nicole T. Kelley	\$	394.74
17	Paulette Yoshida	\$	464.00
18			
19	SUBTOTAL:	\$	2,711.38
20	Total (SECTION 3):	\$	3,684,847.12

21 The sums appropriated shall be expended by the department
 22 of the attorney general for the purposes of this Act.

23 PART II

24 SECTION 4. The following sums or so much thereof as may be
 25 necessary for fiscal year 2011-2012 are appropriated out of the
 26 state highway fund for the purpose of satisfying claims for
 27 legislative relief as to the following named persons, for claims
 28 against the State or its officers or employees for payments of

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judgments or settlements, or other liabilities, in the amount
set forth opposite their names:

**JUDGMENTS AGAINST THE STATE
AND SETTLEMENTS OF CLAIMS:**

AMOUNT

DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION:

Labinia v. State of Hawaii, et al.	\$ 909,000.00
Civil No. 07-1-0075-01, First Circuit	Settlement
Moulton, et al. v. Alamo Rental, et al.	\$ 909,000.00
Civil No. 08-1-0447(3), Second Circuit	Settlement
Requelman v. State of Hawaii, et al.	\$ 232,300.00
Civil No. 06-1-0366, Third Circuit	Settlement

SUBTOTAL: \$ 2,050,300.00

TOTAL (SECTION 4) \$ 2,050,300.00

The sums appropriated shall be expended by the department
of transportation, highways division, for the purposes of this
Act.

PART III

SECTION 5. The following sums or so much thereof as may be
necessary for fiscal year 2011-2012 are appropriated out of the
state harbor fund for the purpose of satisfying claims for
legislative relief as to the following named persons, for claims
against the State or its officers or employees for payments of

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1 judgments or settlements, or other liabilities, in the amount
2 set forth opposite their names:

3 **JUDGMENTS AGAINST THE STATE** **AMOUNT**
4 **AND SETTLEMENTS OF CLAIMS:**

5 DEPARTMENT OF TRANSPORTATION, HARBORS DIVISION:

6	Barba v. State of Hawaii, et al.	\$	35,350.00
7	Civil No. 09-1-0470-02, First Circuit		Settlement
8			
9	Lexington Insurance Company A/S/O/	\$	20,200.00
10	Harry and Jeannette Weinberg Foundation,		Settlement
11	Inc. v. State of Hawaii, et al.		
12	Civil No. 09-1-2864-12, First Circuit		
13			
14			
15	SUBTOTAL:	\$	55,550.00
16			
17	TOTAL (SECTION 5)	\$	55,550.00
18			
19			

20 The sums appropriated shall be expended by the department
21 of transportation, harbors division, for the purposes of this
22 Act.

23 PART IV

24 SECTION 6. The sums hereinabove may be paid to the
25 respective persons, or for the satisfaction or settlement of the
26 respectively identified cases, and in several amounts
27 hereinabove set forth or in lesser amounts deemed appropriate,
28 upon checks issued by the comptroller; provided departments
29 shall obtain the approval of the attorney general before payment
30 of any claim can be made.

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1 SECTION 7. Notwithstanding the sums hereinabove stated as
2 interest upon judgments against the State, payment of interest
3 shall be limited to the period from the date of judgment, if
4 applicable, to thirty days after the effective date of this Act,
5 as provided in section 662-8, Hawaii Revised Statutes, for those
6 cases to which the statute applies.

7 SECTION 8. All unexpended and unencumbered balances of the
8 appropriations made in this Act as of the close of business on
9 June 30, 2012, shall lapse.

10 SECTION 9. If any provision of this Act, or the
11 application thereof to any person or circumstance is held
12 invalid, the invalidity does not effect other provisions or
13 applications of the Act, which can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 10. This Act shall take effect upon its approval.

17
18 INTRODUCED BY: 

19 BY REQUEST
20

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Report Title:

Appropriations; Claims Against State.

Description:

Makes emergency appropriations for claims against the State, its officers, and its employees that were submitted during the regular session of 2011 but were not funded.

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

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT MAKING EMERGENCY
APPROPRIATIONS FOR CLAIMS AGAINST THE STATE,
ITS OFFICERS, OR ITS EMPLOYEES.

PURPOSE: Provide for the authorization and payment of
claims against the State for fiscal year
2011-2012 for refunds of taxes, for
judgments and settlements, and for other
miscellaneous payments as provided by
chapters 37, 661, and 662, Hawaii Revised
Statutes as a result of the fact that the
funds were not appropriated during the
regular legislative session of 2011.

MEANS: Authorize and appropriate funds for the
payment of such claims.

JUSTIFICATION: This bill serves as the vehicle by which
claims against the State are transmitted to
the Legislature for its consideration.
During the regular session of 2011, ATG-
01(11) was submitted to the legislature, but
was not passed. The Legislature will be
asked to authorize and fund the payment of
those claims by an emergency appropriation
of general and special funds. Timely
passage of this bill will serve to minimize
interest on those amounts for which interest
is accruing and prevent further litigation
and expense.

Impact on the public: There would be no
direct impact on the public other than the
persons whose claims are being paid.

Impact on the department and other agencies:
Claims eligible for payment from a special
fund will generally be charged to that
special fund rather than the general fund.
Certain claims will be paid from a

department's appropriation as reflected in the budget bill. In such case, that department will be responsible for finding the moneys in its budget to pay for the judgments and settlements rendered against it.

GENERAL FUND: \$3,684,847.12

OTHER FUNDS: \$2,105,850.00

PPBS PROGRAM DESIGNATION: Various.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.