

S.B. NO. 2809

JAN 25 2012

A BILL FOR AN ACT

MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HUMAN SERVICES.

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

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

4 SECTION 2. A critical fiscal emergency exists. On May 19,
5 2010, United States District Judge J. Michael Seabright ordered
6 the State of Hawaii to pay to the law firms of Alston Hunt Floyd
7 and Ing and Lawyers for Equal Justice the amount of \$70,124.05
8 as attorneys' fees awarded for being the prevailing party in the
9 lawsuit *Sound v. Koller*, Civil No. 09-00409 JMS KSC.

10 Although a request was made for payment of this amount from
11 general funds during the regular session of 2011, the
12 legislature did not appropriate the funds to satisfy this
13 indebtedness. As a result, the two law firms sought to garnish
14 this amount from a State of Hawaii bank account. To avoid
15 garnishment, the department of human services, on advice of its
16 counsel, the department of the attorney general, agreed to pay
17 to the law firms of Alston Hunt Floyd and Ing and Lawyers for

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1 Equal Justice \$39,243.15, consisting of general funds from the
2 Medicaid program budget for HMS 902, General Support for Health
3 Care Payments, in partial payment for the amount owing. Again
4 on the advice of its counsel, the department of the attorney
5 general, the department of human services also agreed to ask the
6 2012 legislature for an expedited appropriation of \$30,880.90 as
7 the remaining amount due to the two law firms. In exchange for
8 the partial payment and the agreement to request this expedited
9 appropriation, the law firms halted their garnishment action
10 against the State of Hawaii.

11 The purpose of this Act is to appropriate \$70,124.05 in
12 general funds for an emergency appropriation for fiscal year
13 2011-2012 to satisfy the State's remaining indebtedness of
14 \$30,880.90 to the law firms of Alston Hunt Floyd and Ing and
15 Lawyers for Equal Justice, and to reimburse the \$39,243.15
16 previously expended from the department of human services' HMS
17 902, General Support for Health Care Payments budget for payment
18 to those law firms, and to ensure that there will be no funding
19 shortfall in the Medicaid program as a result of the earlier
20 partial payment that would disrupt timely payments to contracted
21 health plans in providing medically necessary services to
22 program recipients.

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1 SECTION 3. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$70,124.05, or so
3 much thereof as may be necessary, for fiscal year 2011-2012 to
4 be used for General Support for Health Care Payments (HMS 902).

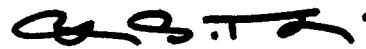
5 SECTION 4. The sum appropriated shall be expended by the
6 department of human services for the purposes of this Act.

7 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



10

BY REQUEST

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Report Title:

General Support for Health Care Payments (HMS 902; Emergency
Appropriation

Description:

Makes an emergency appropriation from general revenues of the State of Hawaii for fiscal year 2011-2012 to address the budget shortfall for General Support for Health Care Payments (HMS 902) in the Department of Human Services.

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: Human Services

TITLE: A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HUMAN SERVICES.

PURPOSE: Provide for the authorization and payment of claims against the State for payment of attorneys' fees, in the amount of \$70,124.05, owed to the law firms of Alston Hunt Floyd and Ing and Lawyers for Equal Justice for a lawsuit the State lost in 2009, *Sound v Koller*, Civil No. 09-00409 JMS KSC.

MEANS: An emergency appropriation of state general funds for the payment of a claim for attorneys' fees.

JUSTIFICATION: The bill to appropriate funds for claims and settlements did not pass during the regular session of 2011. Subsequently, the law firm of Alston Hunt Floyd and Ing asked the Federal Court to garnish the State's bank account. To prevent a garnishment action against the State, the Department of Human Services accepted the recommendation of its counsel, the Department of the Attorney General, and agreed to pay \$39,243.15 from the Department of Human Services' general funds for HMS 902, General Support for Health Care Payments, in October 2010. To further avoid garnishment against the State, the Department of Human Services also agreed to request an expedited appropriation in the amount of \$30,880.90 from the 2012 Legislature to pay the balance in full owed to Alston Hunt Floyd and Ing and the Lawyers for Equal Justice.

This bill will provide reimbursement for the amount the Department of Human Services has paid to date and will provide funds for the payment of the balance owed.

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: Failure to enact this bill may cause the Federal Court to garnish funds, which the Department of Human Services would need to support the timely payment of Medicaid claims.

GENERAL FUND: \$70,124.05 general funds.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HMS 902.

OTHER AFFECTED
AGENCIES: Department of the Attorney General.

EFFECTIVE DATE: Upon approval.