

ACT 249

S.B. NO. 813

Note

The legislature concluded that the governor's proclamation indicating the governor's intent to return S.B. No. 813 was constitutionally defective and that said measure became law. On July 13, 2005, the legislature assigned Act 249 to S.B. No. 813. The attorney general has taken the position that S.B. No. 813 did not become law.

A Bill for an Act Relating to Employment Security.

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

SECTION 1. The purpose of this Act is to appropriate federal Reed Act moneys to the department of labor and industrial relations for the following initiatives:

- (1) Provide seed moneys to the department of labor and industrial relations to be used by the department of labor and industrial relations, in consultation with the local workforce investment boards of each of the four counties, to plan, develop, and implement a computer system that benefits workforce development activities and programs operated by the counties;
- (2) Provide funding for the purposes of assisting the State's four local workforce investment boards. The funds will be used by the local boards to improve employer outreach and services, labor force pool expansion, capacity building, and to fund some shared costs for the operations of the one-stop career centers through the following:
 - (A) Employer outreach and services;
 - (B) Labor force pool expansion;
 - (C) Capacity building; and
 - (D) Servicing and maintaining the one-stop operating system; and
- (3) Provide funds to Oahu's workforce investment board; provided that the workforce investment board partners with Leeward community college to provide federal Wagner-Peyser services for immigrants from the Freely Associated States, pursuant to the workforce development program established under Act 225, Session Laws of Hawaii 2004.

Further, this Act is also intended to conform to the provisions of P.L. 107-147, Temporary Extended Unemployment Compensation Act of 2002 signed by the President of the United States of America on March 9, 2002. This amendment is needed because the requirements for the Reed Act funds distributed in 2002 differ from the prior special Reed Act distribution made in 2002 under the Balanced Budget Act of 1997. Under the Balanced Budget Act of 1997, Reed Act moneys were restricted to unemployment insurance administration purposes only. Section 383-123, Hawaii Revised Statutes, must be amended to conform to the Temporary Extended Unemployment Compensation Act of 2002 Reed Act amendments before Hawaii can use the distribution of \$31,000,000.

SECTION 2. Section 383-123, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Administrative use. Moneys credited to the account of this State in the unemployment trust fund by the Secretary of the Treasury of the United States pursuant to section 903 of the Social Security Act, as amended, may be requisitioned and used for the payment of benefits and for the payment of expenses incurred for the adminis-

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tration of this State's unemployment compensation law and public employment offices pursuant to a specific appropriation of the legislature; provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which: (1) specifies the purposes for which the moneys are appropriated and the amounts appropriated therefor, (2) limits the period within which the moneys may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law, and (3) limits the amount which may be obligated [~~during a twelve-month period beginning on July 1 and ending on the next June 30~~] to an amount which does not exceed the amount by which (A) the aggregate of the amounts credited to the account of this State pursuant to section 903 of the Social Security Act, as amended, [~~during the same twelve-month period and the thirty-four preceding twelve-month periods~~] exceeds (B) the aggregate of the amounts obligated pursuant to this subsection and charged against the amounts credited to the account of this State [~~during such thirty-five twelve-month periods. For the purposes of this subsection, amounts which are obligated for administration or paid out for benefits shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount obligated for administration during a twelve-month period specified herein may be charged against any amount credited during such twelve-month period earlier than the thirty-fourth preceding such period~~].

Moneys credited to the account of this State pursuant to section 903 of the Social Security Act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses for the administration of this chapter pursuant to this subsection.

The appropriation, obligation, and expenditure or other disposition of [~~money~~] moneys appropriated under this subsection shall be accounted for in accordance with standards established by the United States Secretary of Labor. Moneys appropriated for the payment of expenses of administration pursuant to this subsection shall be requisitioned as needed for the payment of obligations incurred under the law appropriating the moneys and, upon requisition, shall be deposited in the employment security administration fund from which such payments shall be made. Moneys so deposited [~~shall~~], until expended, shall remain a part of the unemployment compensation fund and, if it will not be expended within one week after it is withdrawn from the unemployment trust fund, shall be returned at the earliest practical date to the Secretary of the Treasury of the United States for credit to this State's account in the unemployment trust fund.

(c) Notwithstanding subsection (b), moneys credited to the State's account in federal fiscal years ending in 2000, 2001, and 2002 shall be used solely for the administration of the unemployment compensation program and are not subject to the specific appropriation requirements of subsection (b)[-]; except that moneys credited in calendar year 2002 with respect to P.L. 107-147 shall not be subject to the conditions of this subsection or the two-year limitation requirement specified in subsection (b)."

SECTION 3. There is appropriated from the unemployment insurance trust fund from moneys deposited pursuant to section 383-123(b) the sum of \$10,000,000, or so much thereof as may be necessary for fiscal year 2005-2006, and the same sum, or so much thereof as may be necessary for fiscal year 2006-2007, for the purposes specified in this Act; provided that of the \$10,000,000 appropriated for each fiscal year:

(1) The sum of:

(A) \$4,795,000 shall be allocated to the city and county of Honolulu's workforce investment board; provided that the workforce investment board shall partner with the Leeward community college to provide federal Wagner-Peyser services for immigrants from the Freely Associated States, pursuant to the work-

force development program established under Act 225, Session Laws of Hawaii 2004;

- (B) \$1,252,775 shall be allocated to the county of Maui's workforce investment board;
- (C) \$1,000,000 shall be allocated to the county of Kauai's workforce investment board; and
- (D) \$1,650,000 shall be allocated to the county of Hawaii's workforce investment board; provided that the workforce investment board shall partner with the department of labor and industrial relations, workforce development division, to provide federal Wagner-Peyser services for the eradication of coqui frogs and/or other invasive species and to serve residents of Hamakua, Waimea, Kohala, and Waikoloa;

to improve employer outreach and services, labor force pool expansion, capacity building, and to fund some shared costs for the operations of the one-stop career centers within each county; and

- (2) The sum of \$1,302,225 shall be allocated to the department of labor and industrial relations to be used by the department of labor and industrial relations, in consultation with local workforce investment boards of each of the four counties, to plan, develop, and implement a computer system that benefits workforce development activities and programs operated by the counties.

The sums appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act.

SECTION 4. No funds appropriated under section 3 to the department of labor and industrial relations for use by the department of labor and industrial relations and the counties may be released by the governor to the department of labor and industrial relations until all funds appropriated by the legislature for the benefit of the counties under section 3 have been timely, fully, and completely released to the counties as intended by the legislature.

The allotment system powers granted to the governor and the executive branch by the legislature under part II of chapter 37, Hawaii Revised Statutes, are not applicable to the appropriation of federal Reed Act funds being made in section 3 as the federal funds being appropriated under this Act do not affect the solvency of the general fund.

SECTION 5. The department of labor and industrial relations shall report back to the legislature at least twenty days prior to the commencing of the regular session of 2006 on the status of the timely release of funds appropriated under this Act to the counties, and the department shall make another report to the legislature at least twenty days prior to the commencement of the regular session of 2007 on the status of the timely release of the year two funds appropriated to the counties under this Act. Where delays in the release of the funds are reported to the legislature by the department of labor and industrial relations or the counties, the department of labor and industrial relations shall explain to the legislature why there have been delays in the timely release of these funds, and the department shall submit to the legislature, as soon as practical or at the next earliest sitting of the legislature, a corrective action plan intended to ensure the timely release of these funds.

SECTION 6. If any provision of this Act is found to be in conflict with federal requirements that are a prescribed condition for the allocation of federal funds to the State, the conflicting provision of this Act shall be held inoperative solely to the extent of the conflict with respect to the agencies directly affected, and

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shall not affect the operation of the remainder of this Act in its application to the agencies concerned.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval; provided that section 3 shall take effect on July 1, 2005.