

ACT 51

S.B. NO. 1457

A Bill for an Act Making an Emergency Appropriation for the Developmental Disabilities Division of the Department of Health.

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

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

SECTION 2. The purpose of this Act is to appropriate additional funds to the department of health for the State's medicaid title XIX programs, which include the developmental disabilities or mentally retarded home and community-based services and the medicaid state plan intermediate care facilities for the mentally retarded in the community program, to meet a critical funding emergency. The additional funds are necessary to support current clients and to reasonably admit individuals into the program to fulfill the developmental disabilities division's obligations under the settlement agreement in *DHRC v. State*, United States District Court, Civil No. 03-00524 HG-KSC, and comply with the United States Supreme Court's decision in *Olmstead v. Linn*, 527 U.S. 581, 119 S. Ct. 2176 (1999), and the requirements of chapter 333F, Hawaii Revised Statutes, to support people to live in the community.

The developmental disabilities interdepartmental transfer fund or U-fund ceiling constitutes a limit on the department of health's ability to receive federal medicaid reimbursements transferred from the department of human services back to the department of health. These funds are in turn reallocated for expenditures to make further claims for federal reimbursement. Once the department of health has exceeded the statutory limitation of the U-fund, the ability to expend the resources that it receives is impaired. Therefore, the increase in the U-fund ceiling is now critically necessary to ensure timely expenditure of the general fund emergency appropriation contained in this measure.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,980,523, or so much thereof as may be necessary, for fiscal year 2006-2007, to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 4. There is appropriated out of the interdepartmental transfer fund the sum of \$4,111,237, or so much thereof as may be necessary for fiscal year 2006-2007, to carry out the purposes of this Act.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 5. In accordance with article VII, section 9 of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the general fund expenditure ceiling for fiscal year 2006-2007 (established at \$5,357,987,705 on November 8, 2006) has already been exceeded by \$90,137,694 or 1.68 per cent. The appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 2006-2007 to be exceeded by an additional \$4,980,523, or an additional 0.093 per cent. The calculation contained in the foregoing sentence relates only to the amount of general funds appropriated in this Act for fiscal year 2006-2007. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 1, 2007.)