

ACT 176

H.B. NO. 2688

A Bill for an Act Relating to Health.

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

SECTION 1. The legislature finds that section 37-52.3, Hawaii Revised Statutes, requires all special funds to reflect a clear nexus between the benefits sought and the charges made upon the users or beneficiaries of programs supported by the fund, as opposed to serving primarily as a means of providing the programs or users with an automatic stream of support that is removed from the normal budget and appropriations process.

The legislature further finds that there is a need to clarify the nexus between the benefits sought and charges made upon the users and beneficiaries of the environmental health education fund. The fund is the depository of fees collected by the department of health for permits, licenses, inspections, various certificates, variances, investigations, and reviews respecting:

- (1) Certain occupations, practices, and persons that the department deems necessary to regulate for public health or safety reasons under section 321-13, Hawaii Revised Statutes, including clinical laboratory directors, scientists, specialists, and technicians; cytotechnologists; tattoo artists; and environmental health professionals; and
- (2) Facilities seeking licensure or certification, including hospitals, nursing homes, freestanding outpatient surgical facilities, care centers, laboratories, and special treatment centers, as provided in section 321-11.5, Hawaii Revised Statutes.

Section 321-27, Hawaii Revised Statutes, requires the department of health to use the moneys in the environmental health education fund to enhance the capacity of the environmental health programs.

The legislature further finds that over ninety per cent of the fees deposited into the environmental health education fund are collected by the sanitation branch of the department of health's environmental health services division. The sanitation branch is charged with implementing programs related to:

- (1) Food protection;
- (2) The regulation of barber shops, beauty parlors, massage parlors, tattoo shops, mortuaries, public swimming pools, and public laundries;
- (3) The inspection of tenement houses, lodging houses, and boarding houses;
- (4) The licensing of tattoo artists and embalmers; and
- (5) Enforcing the sanitation requirements for hospitals and medical facilities.

While the legislature recognizes the importance of providing a dedicated source of funding for environmental health education activities, the legislature acknowledges that, in this case, the fees collected should directly benefit the fee payers.

The purpose of this Act is to:

- (1) Change the name of the environmental health education fund to the sanitation and environmental health special fund; and
- (2) Allow the use of fund money for sanitation program activities.

SECTION 2. Section 321-11.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Other than the fees collected under subsection (b), all other fees collected under this section and section 321-15 shall be deposited into the sanitation and environmental health [education] special fund established under section 321-27.”

SECTION 3. Section 321-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every person holding a license to practice any occupation specified in section 321-13(a)(1) shall reregister with the department of health every other year in accordance with the rules of the department, before February 1 except where superseded by federal law, and shall pay a reregistration fee. The failure, neglect, or refusal of any person holding ~~such~~ a license to reregister or pay the reregistration fee, after thirty days of delinquency, shall constitute a forfeiture of the person’s license; provided that the license shall be restored upon written application therefor together with a payment of all delinquent fees and an additional late reregistration fee that may be established by the director of health. All fees collected pursuant to this section shall be deposited into the sanitation and environmental health [education] special fund established under section 321-27.”

SECTION 4. Section 321-27, Hawaii Revised Statutes, is amended to read as follows:

“**§321-27 [Environmental] Sanitation and environmental health [education] special fund.** (a) There is established within the department of health ~~an~~ the sanitation and environmental health [education] special fund into which shall be deposited all moneys collected from fees for permits, licenses, inspections, various certificates, variances, investigations, and reviews, pursuant to sections 321-11.5(c) and 321-15.

(b) Moneys in the fund shall be expended by the department ~~[for the purpose of enhancing]~~ to partially fund the operating costs of program activities and functions authorized pursuant to section 321-11 to enhance the capacity of sanitation and environmental health programs to:

- (1) Improve public outreach efforts and consultations to regulated businesses and industries [~~regulated~~];
- (2) Educate the public, staff, and regulated businesses and industries [~~regulated thereunder~~];
- (3) Plan for future growth and expansion to meet emerging needs; [~~and~~]
- (4) Provide training opportunities to ensure the maintenance of professional competence among sanitation and environmental health staff and administrators[~~;~~]

~~Not~~; and

- (5) Conduct program activities and functions of the sanitation branch, including permit issuance, inspections, and enforcement and the hiring of additional inspectors;

provided that for environmental health programs, not more than [\$90,000] \$140,000 of the fund may be [utilized] used during any fiscal year for fund administration, including the hiring of not more than two full-time equivalent personnel, and the purchase of office and electronic equipment.

(c) Any amount in the fund in excess of [~~\$300,000~~] \$1,500,000 on June 30 of each year shall be deposited into the general fund.

(d) The department of health shall submit a report to the legislature concerning the status of the sanitation and environmental health [~~education~~] special fund, including[~~;~~ but not limited to, the];

- (1) The amount of moneys taken in by and expended from the fund[~~;~~ and [the]

(2) The sources of receipts and uses of expenditures,
not less than twenty days prior to the convening of each regular session.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2010.

(Approved June 25, 2010.)