

**ACT 8**

H.B. NO. 2438

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.

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**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.

**PART II**

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

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

**AMOUNT**

**1. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES:**

Mediation of Hilo Judiciary Complex	\$ 2,141,098.00
Construction Claims	Settlement
<b>SUBTOTAL:</b>	<b>\$ 2,141,098.00</b>

**2. DEPARTMENT OF EDUCATION:**

In the Matter of the Arbitration Between Hawaii State Teachers Association, AFSCME Local 152, AFL-CIO and Kihei Public Charter School (Grievance of Marty Bender)	\$ 12,298.00 Settlement
Jemwai v. Keau, et al., Civil No. 09-1-0095-01, First Circuit	\$ 252,500.00 Settlement
John Doe Parent, et al. v. State of Hawaii, et al., Civil No. 10-1-0505-03, First Circuit	\$ 70,700.00 Settlement
McCauley v. Inouye, et al. Civil No. 07-01-206K, Third Circuit	\$ 136,350.00 Settlement
<b>SUBTOTAL:</b>	<b>\$ 471,848.00</b>

**3. HAWAII HEALTH SYSTEMS CORPORATION:**

United Public Workers AFSCME, Local 646, AFL-CIO and State of Hawaii, et al. S.P. No. 09-1-0305, First Circuit	\$ 19,511.73 Judgment
<b>SUBTOTAL:</b>	<b>\$ 19,511.73</b>

**4. DEPARTMENT OF HEALTH:**

Segundo v. Frederick, et al. Civil No. 08-1-0106, Third Circuit	\$ 328,250.00 Settlement
<b>SUBTOTAL:</b>	<b>\$ 328,250.00</b>

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

	AMOUNT
<b>5. DEPARTMENT OF HUMAN SERVICES:</b>	
Robinson, et al. v. Plourde, et al. Civil No. 04-00672 DAE-KSC, USDC	\$ 20,929.57 Order
Sound v. Koller, et al. Civil No. 09-00409 JMS-KSC, USDC	\$ 70,124.05 Settlement
SUBTOTAL:	\$ 91,053.62
<b>6. DEPARTMENT OF LAND AND NATURAL RESOURCES:</b>	
Kinney v. Department of Land and Natural Resources, et al., Civil No. 03-1-0010, Fifth Circuit	\$ 54,169.39 Judgment
Santiago v. County of Kauai, et al. Civil No. 08-1-0210, Fifth Circuit	\$ 18,180.00 Settlement
SUBTOTAL:	\$ 72,349.39
<b>7. DEPARTMENT OF PUBLIC SAFETY:</b>	
Botelho, et al. v. State of Hawaii, et al. Civil No. 06-00096 DAE-BMK, USDC	\$ 277,750.00 Settlement
Itagaki v. Frank, et al. Civil No. 09-00110 SOM-RLP, USDC	\$ 83,830.00 Settlement
Kuresa v. Frank, et al. Civil No. 09-1-0303-02, First Circuit	\$ 25,250.00 Settlement
Maier v. State of Hawaii, et al. Civil No. 10-00449 JMS-BMK, USDC	\$ 20,200.00 Settlement
Tenney v. State of Hawaii, et al. Civil No. 09-1-0190-01, First Circuit	\$ 150,995.00 Settlement
SUBTOTAL:	\$ 558,025.00
<b>8. MISCELLANEOUS CLAIMS:</b>	
Tom Ishigo	\$ 1,852.64
Nicole T. Kelley	\$ 394.74
Paulette Yoshida	\$ 464.00
SUBTOTAL:	\$ 2,711.38
TOTAL (SECTION 3):	\$ 3,684,847.12

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

### PART III

SECTION 4. The following sums or so much thereof as may be necessary for fiscal year 2011-2012 are appropriated out of the state highway 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 judgments or settlements, or other liabilities, in the amount set forth opposite their names:

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

**AMOUNT**

**DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION:**

Labinia v. State of Hawaii, et al. Civil No. 07-1-0075-01, First Circuit	\$ 909,000.00 Settlement
Moulton, et al. v. Alamo Rental, et al. Civil No. 08-1-0447(3), Second Circuit	\$ 909,000.00 Settlement
Requelman v. State of Hawaii, et al. Civil No. 06-1-0366, Third Circuit	\$ 232,300.00 Settlement
<b>SUBTOTAL:</b>	<b>\$ 2,050,300.00</b>
<b>TOTAL (SECTION 4)</b>	<b>\$ 2,050,300.00</b>

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

**PART IV**

**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 special 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 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, HARBORS DIVISION:**

Barba v. State of Hawaii, et al. Civil No. 09-1-0470-02, First Circuit	\$ 35,350.00 Settlement
Lexington Insurance Company A/S/O/ Harry and Jeanette Weinberg Foundation, Inc. v. State of Hawaii, et al. Civil No. 09-1-2864-12, First Circuit	\$ 20,200.00 Settlement
<b>SUBTOTAL:</b>	<b>\$ 55,550.00</b>
<b>TOTAL (SECTION 5)</b>	<b>\$ 55,550.00</b>

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

**PART V**

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

**SECTION 7.** Payment of interest shall be limited to the period from the date of judgment, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which the statute applies.

**SECTION 8.** All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2012, shall lapse to the credit of the respective fund from which the money was appropriated.

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

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

(Approved March 19, 2012.)