

A Bill for an Act Relating to Certain Funds Under the Department of Labor and Industrial Relations.

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

SECTION 1. The legislature finds that certain funds in the department of labor and industrial relations are classified and operated incongruently from their statutory designations. According to the state auditor's report no. 12-10, issued on December 7, 2012, the confusion in classifying funds may be due to the inconsistency between the name given to the fund by the statute that establishes it; the definitions provided by the department of accounting and general services; and the definitions of special, revolving, and trust funds contained in the Hawaii Revised Statutes.

The purpose of this Act is to clarify the classification of four funds of the department of labor and industrial relations as trust funds as recommended by the state auditor.

SECTION 2. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center enterprise special fund under section 201B-8;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Funds of the employees' retirement system created by section 88-109;
- ~~[(11) Unemployment compensation fund established under section 383-121;~~
- ~~[(12)]~~ (11) Hawaii hurricane relief fund established under chapter 431P;
- ~~[(13)]~~ (12) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- ~~[(14)]~~ (13) Tourism special fund established under section 201B-11;
- ~~[(15)]~~ (14) Universal service fund established under section 269-42;
- ~~[(16)]~~ (15) Emergency and budget reserve fund under section 328L-3;
- ~~[(17)]~~ (16) Public schools special fees and charges fund under section 302A-1130;
- ~~[(18)]~~ (17) Sport fish special fund under section 187A-9.5;
- ~~[(19)]~~ (18) Glass advance disposal fee established by section 342G-82;
- ~~[(20)]~~ (19) Center for nursing special fund under section 304A-2163;
- ~~[(21)]~~ (20) Passenger facility charge special fund established by section 261-5.5;
- ~~[(22)]~~ (21) Court interpreting services revolving fund under section 607-1.5;

- ~~[(23)]~~ (22) Hawaii cancer research special fund;
- ~~[(24)]~~ (23) Community health centers special fund;
- ~~[(25)]~~ (24) Emergency medical services special fund;
- ~~[(26)]~~ (25) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- ~~[(27)]~~ (26) Shared services technology special fund under section 27-43; and
- ~~[(28)]~~ (27) Automated victim information and notification system special fund established under section 353-136,

shall deduct five per cent of all receipts of all special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.”

SECTION 3. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) Each special fund, except the:
- (1) Transportation use special fund established by section 261D-1;
  - (2) Special out-of-school time instructional program fund under section 302A-1310;
  - (3) School cafeteria special funds of the department of education;
  - (4) Special funds of the University of Hawaii;
  - (5) State educational facilities improvement special fund;
  - (6) Special funds established by section 206E-6;
  - (7) Aloha Tower fund created by section 206J-17;
  - (8) Funds of the employees’ retirement system created by section 88-109;
  - ~~[(9)] Unemployment compensation fund established under section 383-121;~~
  - ~~[(10)]~~ (9) Hawaii hurricane relief fund established under section 431P-2;
  - ~~[(11)]~~ (10) Convention center enterprise special fund established under section 201B-8;
  - ~~[(12)]~~ (11) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
  - ~~[(13)]~~ (12) Tourism special fund established under section 201B-11;
  - ~~[(14)]~~ (13) Universal service fund established under section 269-42;
  - ~~[(15)]~~ (14) Emergency and budget reserve fund under section 328L-3;
  - ~~[(16)]~~ (15) Public schools special fees and charges fund under section 302A-1130;
  - ~~[(17)]~~ (16) Sport fish special fund under section 187A-9.5;
  - ~~[(18)]~~ (17) Center for nursing special fund under section 304A-2163;
  - ~~[(19)]~~ (18) Passenger facility charge special fund established by section 261-5.5;
  - ~~[(20)]~~ (19) Court interpreting services revolving fund under section 607-1.5;
  - ~~[(21)]~~ (20) Hawaii cancer research special fund;
  - ~~[(22)]~~ (21) Community health centers special fund;
  - ~~[(23)]~~ (22) Emergency medical services special fund;

- ~~[(24)]~~ (23) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- ~~[(25)]~~ (24) Shared services technology special fund under section 27-43;
- ~~[(26)]~~ (25) Nursing facility sustainability program special fund, ~~[[~~under Act 156, Session Laws of Hawaii 2012~~]]~~;
- ~~[[~~(27)~~]]~~ (26) Automated victim information and notification system special fund established under section 353-136; and
- ~~[(28)]~~ (27) Hospital sustainability program special fund under ~~[[~~Act 217, Session Laws of Hawaii 2012~~]]~~,

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.”

SECTION 4. Section 383-121, Hawaii Revised Statutes, is amended to read as follows:

**“§383-121 Unemployment compensation trust fund; establishment and control.** There is established in the treasury of the State as a ~~[special]~~ trust fund, separate and apart from all public moneys or funds of the State, an unemployment compensation fund, which shall be administered by the department of labor and industrial relations exclusively for the purposes of this chapter. All contributions pursuant to this chapter shall be paid into the fund and all compensation and benefits payable pursuant to this chapter shall be paid from the fund. All moneys in the fund shall be mingled and undivided. The fund shall consist of:

- (1) All contributions collected pursuant to this chapter;
- (2) Interest earned on any moneys in the fund;
- (3) Any property or securities acquired through the use of moneys belonging to the fund;
- (4) All earnings of such property or securities;
- (5) All moneys credited to this State’s account in the unemployment trust fund pursuant to section 903 of the Social Security Act, as amended; and
- (6) All other moneys received for the fund from any other source.”

SECTION 5. Section 386-151, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is hereby created a trust fund to be known as the special compensation fund which shall consist of payments made to it as provided by law. The director of finance of the State shall be custodian of the fund, and all disbursements therefrom shall be paid by the director of finance upon orders by the director of labor and industrial relations.”

SECTION 6. Section 392-61, Hawaii Revised Statutes, is amended to read as follows:

**“§392-61 Establishment of ~~[special]~~ trust fund for disability benefits.** There is established in the treasury of the State, separate and apart from all public moneys or funds of the State, a ~~[special]~~ trust fund for disability benefits which shall be administered by the director exclusively for the purposes of this chapter; and for the establishment and maintenance of a family leave data collection system under section 398-9.5. All contributions pursuant to this part shall be paid into the fund and all benefits payable under this part shall be paid from the fund. The fund shall consist of (1) all contributions collected pursuant to

this part, together with any interest thereon; (2) all fines and penalties for the fund pursuant to this chapter; (3) all moneys collected by way of subrogation; (4) interest earned on any moneys in the fund; (5) any property or securities acquired through the use of moneys belonging to the fund; (6) all earnings of such property and securities; and (7) all other moneys received for the fund from any source.”

SECTION 7. Section 393-41, Hawaii Revised Statutes, is amended to read as follows:

**“[§393-41] Establishment of [special] premium supplementation trust fund.** There is established in the treasury of the State, separate and apart from all public moneys or funds of the State, a [special] trust fund for premium supplementation which shall be administered exclusively for the purposes of this chapter. All premium supplementations payable under this part shall be paid from the fund. The fund shall consist of (1) all money appropriated by the State for the purposes of premium supplementation under this part and (2) all fines and penalties collected pursuant to this chapter.”

SECTION 8. To conform to the change in the name “special fund for disability benefits” to “trust fund for disability benefits,” the title of part IV of chapter 392, Hawaii Revised Statutes, and sections 392-28(3) and (4), 392-42.5(b), 392-43(f) and (g), 392-45, 392-46, 392-47, 392-52, 392-62, 392-63, 392-64, 392-65, 392-67, 392-69, 392-72(a), 392-78(d), and 392-92(b), Hawaii Revised Statutes, are amended by substituting the word “trust fund” or like term, wherever the words “special fund” or like term appears, as the context requires.

SECTION 9. To conform to the change in the name “special fund for premium supplementation” to “trust fund for premium supplementation,” sections 393-33(a) and 393-34(b), Hawaii Revised Statutes, are amended by substituting the words “trust fund” or like term, wherever the words “special fund” or like term appears, as the context requires.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval; provided that the amendments made to sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, under sections 2 and 3 of this Act respectively, shall not be repealed when those sections are reenacted on June 30, 2015, pursuant to section 34 of Act 79, Session Laws of Hawaii 2009.

(Approved June 14, 2013.)