

## ACT 70

H.B. NO. 581

A Bill for an Act Relating to the Hospital Sustainability Program.

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

SECTION 1. Act 217, Session Laws of Hawaii 2012, as amended by section 1 of Act 141, Session Laws of Hawaii 2013, as amended by section 1 of Act 123, Session Laws of Hawaii 2014, as applicable, is amended by amending section 2 to read as follows:

1. By amending the definitions of “net patient service revenue” and “private hospital” in section -3, Hawaii Revised Statutes, to read:

““Net patient service revenue” means gross revenue from inpatient and outpatient care provided to hospital patients converted to net patient revenue utilizing data from Worksheets G-2 and G-3 of each hospital’s medicare cost report for fiscal year ~~[2011-2012.]~~ 2012-2013. If the hospital is new or did not file a fiscal year medicare cost report, the department shall obtain the hospital’s net patient service revenue from the most recent period available.

“Private hospital” means those non-public hospitals named in attachment A of the medicaid section 1115 demonstration waiver that were in operation in calendar year ~~[2013]~~ 2014 and are currently operating.”

2. By amending subsection (c) of section -4, Hawaii Revised Statutes, to read:

“(c) Moneys in the hospital sustainability program special fund shall be used exclusively as follows:

- (1) To make direct supplemental uncompensated care and upper payment limit payments to private hospitals pursuant to the terms of the section 1115 waiver. At least eighty-eight per cent of the moneys in the special fund shall be used for this purpose, provided that in no instance shall a hospital receive ~~[uncompensated care costs]~~ supplemental payments that exceed its allowable uncompensated care costs;
- (2) Twelve per cent of the moneys in the special fund may be used by the department for other departmental purposes; and
- (3) Any money remaining in the special fund six months after the repeal of this chapter, shall be distributed to hospitals within thirty days in the same proportions as received from the hospitals.”

3. By amending subsections (c) and (d) of section -5, Hawaii Revised Statutes, to read:

“(c) The hospital sustainability fee for inpatient care services may differ from the fee for outpatient care services but the fees shall not in the aggregate exceed three per cent of net patient service revenue as derived from the hospital’s medicare cost report ending during state fiscal year ~~[2011-2012.]~~ 2012-2013. The inpatient hospital sustainability fee shall be ~~[2.475]~~ 1.892 per cent of net inpatient hospital service revenue. The outpatient hospital sustainability fee shall be three per cent of net outpatient hospital service revenue. Each fee shall be the same percentage for all affected hospitals, subject to subsection (d).

(d) The department shall exempt children’s hospitals, federal hospitals, public hospitals, rehabilitation hospitals, and psychiatric hospitals, and any hos-

pital that was not in private operation during any part of calendar year [2013] 2014 from the hospital sustainability fees on inpatient services. In addition, the department shall exempt hospitals with net outpatient revenue of less than [~~\$45,000,000~~] \$50,000,000 per year (based on fiscal year [2011-2012] 2012-2013 reports)[,] and public hospitals, and any hospital that was not in private operation during any part of calendar year [2013] 2014 from the hospital sustainability fee on outpatient care services."

4. By amending section -8, Hawaii Revised Statutes, to read:

**"§ -8 Multifacility locations.** If an entity conducts, operates, or maintains more than one hospital licensed by the department of health, the entity shall pay the hospital sustainability [fee] fees for each hospital separately[-], unless it operates and files more than one hospital under a single medicare cost report."

5. By amending section -10, Hawaii Revised Statutes, to read:

**"§ -10 Private hospital payments.** (a) The department shall use moneys solely from the hospital sustainability program special fund to make direct payments to private hospitals [~~in an amount equal to \$85,000,000~~], pursuant to the terms of the section 1115 waiver, in an amount equal to \$88,000,000 to cover the uncompensated care costs incurred by private hospitals for serving medicaid and uninsured individuals during state fiscal year [2014-2015-] 2015-2016.

(b) The department shall use moneys solely from the hospital sustainability program special fund to make direct upper payment limit payments in an amount equal to \$3,975,442, pursuant to the terms of the section 1115 waiver, to level II trauma centers verified by the American College of Surgeons and designated by the department of health, including recognized specialty children's hospitals that do not pay both the inpatient and outpatient assessments.

~~[(b)]~~ (c) The department shall make quarterly payments to private hospitals to reimburse their uncompensated care costs within twenty days after the end of each calendar quarter; provided that payments shall not be due until at least fifteen days after receipt of the fees required by section -6. If the department fails to pay the full amount when due, there shall be added to the payment a penalty equal to prime plus two per cent of the payment that was not paid when due.

~~[(e)]~~ (d) Each eligible hospital's quarterly payment shall be equal to one-quarter of its prorated share of uncompensated care costs for the fiscal year in which payment is made, as derived from the uncompensated care costs reported by all private hospitals for fiscal year [2011-2012-] 2012-2013; provided that:

- (1) Outpatient uncompensated care costs shall be reimbursed at one hundred per cent of reported uncompensated care costs; and
- (2) Inpatient uncompensated care costs shall be reimbursed on a prorated share based on the remaining uncompensated care amounts available through the section 1115 waiver.

(e) Each eligible hospital's quarterly payment from the hospital sustainability program special fund shall be equal to one-quarter of its share of upper payment limit payments for the fiscal year in which payment is made. Eligible hospitals shall receive their payments based on their medicaid utilization to ensure access to care for that beneficiary population.

~~[(d)]~~ (f) If federal approval pursuant to section -7 is not received until after the end of any quarter for which the hospital sustainability fee is applicable, the department shall make the initial quarterly payments within five days after receipt of the hospital sustainability fee for the respective quarter.

~~(e)~~ (g) To the extent the hospital sustainability program is not effective for the entire year, the hospital sustainability fee, the state medicaid expenses and administrative fee, and the corresponding uncompensated care payments shall be based on the proportion of the fiscal year the program is in effect.”

SECTION 2. Act 217, Session Laws of Hawaii 2012, as amended by section 2 of Act 141, Session Laws of Hawaii 2013, and as amended by section 2 of Act 123, Session Laws of Hawaii 2014, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect on July 1, 2012, and shall be repealed on June 30, ~~[2015;]~~ 2016; provided that section ~~4,~~ Hawaii Revised Statutes, in section 2 of this Act, and the amendment to section 36-30(a), Hawaii Revised Statutes, in section 3 of this Act, shall be repealed on December 31, ~~[2015;]~~ 2016; provided further that the amendment to section 36-30(a), Hawaii Revised Statutes, in section 3 of this Act, shall not be repealed when section 36-30, Hawaii Revised Statutes, is reenacted on June 30, 2015, pursuant to section 34(3) of Act 79, Session Laws of Hawaii 2009.”

SECTION 3. Act 123, Session Laws of Hawaii 2014, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect on June 29, 2014; provided that ~~[section]:~~

- (1) Section 5 shall take effect on July 1, 2014~~[-];~~
- (2) The amendments made to sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, in sections 3 and 4 of this Act shall not be repealed when sections 36-27 and 36-30, Hawaii Revised Statutes, are reenacted on June 30, 2015, pursuant to section 34 of Act 79, Session Laws of Hawaii 2009; and
- (3) The amendments made to sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, in sections 3 and 4 of this Act shall be repealed on December 31, 2016.”

SECTION 4. 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) Hawaii hurricane relief fund established under chapter 431P;

- (12) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (13) Tourism special fund established under section 201B-11;
- (14) Universal service fund established under section 269-42;
- (15) Emergency and budget reserve fund under section 328L-3;
- (16) Public schools special fees and charges fund under section 302A-1130;
- (17) Sport fish special fund under section 187A-9.5;
- (18) Glass advance disposal fee established by section 342G-82;
- (19) Center for nursing special fund under section 304A-2163;
- (20) Passenger facility charge special fund established by section 261-5.5;
- (21) Court interpreting services revolving fund under section 607-1.5;
- (22) Hawaii cancer research special fund;
- (23) Community health centers special fund;
- (24) Emergency medical services special fund;
- (25) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (26) Shared services technology special fund under section 27-43;
- (27) Automated victim information and notification system special fund established under section 353-136;
- (28) Deposit beverage container deposit special fund under section 342G-104;
- (29) Hospital sustainability program special fund under Act 217, Session Laws of Hawaii 2012, as amended [~~by Act 141, Session Laws of Hawaii 2013~~];
- (30)  Nursing facility sustainability program special fund under Act 156, Session Laws of Hawaii 2012;
- (31)  Hawaii 3R's school improvement fund  under section 302A-1502.4; and
- (32)  After-school plus program revolving fund under section 302A-1149.5,

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 5. 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) Hawaii hurricane relief fund established under section 431P-2;
- (10) Convention center enterprise special fund established under section 201B-8;
- (11) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (12) Tourism special fund established under section 201B-11;
- (13) Universal service fund established under section 269-42;
- (14) Emergency and budget reserve fund under section 328L-3;
- (15) Public schools special fees and charges fund under section 302A-1130;
- (16) Sport fish special fund under section 187A-9.5;
- (17) Center for nursing special fund under section 304A-2163;
- (18) Passenger facility charge special fund established by section 261-5.5;
- (19) Court interpreting services revolving fund under section 607-1.5;
- (20) Hawaii cancer research special fund;
- (21) Community health centers special fund;
- (22) Emergency medical services special fund;
- (23) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (24) Shared services technology special fund under section 27-43;
- (25) Nursing facility sustainability program special fund established pursuant to Act 156, Session Laws of Hawaii 2012;
- (26) Automated victim information and notification system special fund established under section 353-136; and
- (27) Hospital sustainability program special fund under Act 217, Session Laws of Hawaii 2012, as amended [~~by Act 141, Session Laws of Hawaii 2013~~],

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 6. There is appropriated out of the hospital sustainability program special fund the sum of \$50,000,000 or so much thereof as may be necessary for fiscal year 2015-2016 to be used for the purposes of the hospital sustainability program special fund.

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

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

SECTION 8. This Act shall take effect on July 1, 2015; provided that sections 1, 2, and 3 of this Act shall take effect on June 29, 2015.

(Approved May 29, 2015.)