

A Bill for an Act Relating to the Civil Monetary Penalty Special Fund.

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

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§321- Civil monetary penalty special fund.** (a) There is established the civil monetary penalty special fund, to be administered by the department of health. The fund shall consist of moneys collected by the United States Department of Health and Human Services Centers for Medicare and Medicaid Services as federally imposed civil monetary penalty funds when health care facilities or agencies do not meet medicare certification requirements as determined by the department of health when it conducts medicare certification surveys and complaint investigations on health care facilities or agencies in Hawaii in accordance with section 1864 of the Social Security Act. Moneys in the fund shall be expended by the department of health as approved by the Centers for Medicare and Medicaid Services. Not more than \$30,000 of the moneys in the fund may be used during any fiscal year for the activities carried out by the department of health as approved by the Centers for Medicare and Medicaid Services.

(b) Pursuant to federal law, civil monetary penalty special fund moneys shall not be subject to deposit into the general fund for any reason.

(c) The department of health shall submit a report to the legislature concerning the status of the civil monetary penalty special fund, including the amount of moneys deposited into and expended from the civil monetary penalty special fund, and the sources of receipts and uses of expenditures, no later than twenty days prior to the convening of each regular session.”

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) 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; ~~and~~
- (33) Civil monetary penalty special fund under section 321-

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) Hawaii hurricane relief fund established under section 431P-2;
  - (10) Convention center enterprise special fund established under section 201B-8;

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- (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~~;~~ and
- (28) Civil monetary penalty special fund under section 321-

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. There is appropriated out of the civil monetary penalty special fund the sum of \$30,000 or so much thereof as may be necessary for fiscal year 2015-2016 and the sum of \$15,000 or so much thereof as may be necessary for fiscal year 2016-2017 for the purposes approved by the Centers for Medicare and Medicaid Services.

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

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on June 29, 2015; provided that:

- (1) Section 4 shall take effect on July 1, 2015;
- (2) The amendments made to section 36-27(a), Hawaii Revised Statutes, in section 2 of this Act shall not be repealed when section 36-27(a), Hawaii Revised Statutes, is repealed and reenacted on:
  - (A) June 30, 2015, pursuant to section 34(3) of Act 79, Session Laws of Hawaii 2009; and
  - (B) December 31, 2015, pursuant to section 7(3) of Act 124, Session Laws of Hawaii 2014; and
- (3) The amendments made to section 36-30(a), Hawaii Revised Statutes, in section 3 of this Act shall not be repealed when section 36-30(a), Hawaii Revised Statutes, is repealed and reenacted on:
  - (A) June 30, 2015, pursuant to section 34(3) of Act 79, Session Laws of Hawaii 2009; and

(B) December 31, 2015, pursuant to section 7(3) of Act 124, Session Laws of Hawaii 2014.

(Approved May 29, 2015.)

**Note**

1. Edited pursuant to HRS §23G-16.5.