

ACT 6

S.B. NO. 103

A Bill for an Act Relating to the Disposition of Excess General Funds Authorized Under Article VII, Section 6, of the Constitution of the State of Hawaii.

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

SECTION 1. The purpose of this Act is to establish a statute to implement the amendment to the Constitution of the State of Hawaii by senate bill no. 2554, which was passed during the regular session of 2016 and ratified on November 8, 2016.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
DISPOSITION OF EXCESS REVENUES**

§ -1 **Purpose.** (a) Article VII, section 6, of the Constitution of the State of Hawaii requires the disposition of excess general funds when the state

general fund balance at the close of each of two successive fiscal years exceeds five per cent of general fund revenues for each of the two fiscal years.

When conditions occur requiring compliance with article VII, section 6, of the Constitution of the State of Hawaii, this chapter sets forth provisions authorizing the pre-payment of general obligation bond debt service or pension or other post-employment benefit liabilities in lieu of providing a tax refund or credit or depositing funds into a reserve fund.

(b) Nothing in this chapter or any other law shall prevent the legislature from complying with article VII, section 6, of the Constitution of the State of Hawaii for a fiscal year, by taking for that fiscal year a single action or multiple actions authorized under article VII, section 6(1), (2), (3)(A), or (3)(B).

**§ -2 Pre-payment of general obligation bond debt service.** (a) To comply with article VII, section 6, of the Constitution of the State of Hawaii, the legislature may pre-pay general obligation bond debt service. When choosing to do so, the legislature shall appropriate general funds to be expended to pay more than the general obligation bond debt service due in a fiscal year in order to retire general obligation bonds earlier than scheduled at the time of the appropriation.

(b) For the purpose of this section, the "general obligation bond debt service due in a fiscal year" means the principal of and interest on general obligation bonds that mature and are payable in a fiscal year under the applicable bond covenant and section 39-12. The term shall not mean any delinquent debt service payment accrued from a prior fiscal year, penalty or interest imposed because of the delinquent payment, or principal or interest on bond anticipation notes.

(c) An appropriation of general funds to pre-pay general obligation bond debt service may include an appropriation to pay a redemption premium.

**§ -3 Pre-payment of other post-employment benefit liability.** (a) To comply with article VII, section 6, of the Constitution of the State of Hawaii, the legislature may pre-pay the State's other post-employment benefit liability. When choosing to do so, the legislature shall appropriate general funds to be expended to pay more than the annual required contribution owed by the State for a fiscal year in order to reduce future annual required contributions to amortize the unfunded other post-employment liability of the State.

(b) For the purpose of this section, the "annual required contribution owed by the State for a fiscal year" means the annual required contribution owed by the State for the fiscal year as determined by the board of trustees of the Hawaii employer-union health benefits trust fund under section 87A-43.

(c) An appropriation of general funds to pay more than the annual required contribution owed by the State for a fiscal year shall be deposited into the trust fund for other post-employment benefits established under section 87A-42.

(d) In no case shall an appropriation of general funds made pursuant to this section be expended for or credited to any cost or liability of a county under chapter 87A.

**§ -4 Pre-payment of pension liability.** (a) To comply with article VII, section 6, of the Constitution of the State of Hawaii, the legislature may pre-pay the State's unfunded accrued pension liability. When choosing to do so, the legislature shall appropriate general funds to be expended to pay more than the required contribution for a fiscal year for the State's unfunded accrued pension liability in order to amortize that unfunded liability earlier than scheduled at the time of the appropriation.

(b) For the purpose of this section, the "required contribution for a fiscal year for the State's unfunded accrued pension liability" means the portion

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of the contribution for a fiscal year payable by the State that is allocated to amortize the unfunded accrued liability of the State as determined under sections 88-122(d) and 88-123. The term shall not include the portion of the contribution allocated to fund the State's normal cost for state employees.

(c) An appropriation of general funds to pay more than the required contribution for a fiscal year for the State's unfunded accrued pension liability shall be deposited into the pension accumulation fund established under section 88-114.

(d) In no case shall an appropriation of general funds made pursuant to this section be expended for or credited to any cost or liability of a county under chapter 88.

**§ -5 No effect on tax refund or credit or reserve fund deposit to comply with constitutional provision.** This chapter shall not affect the authority or discretion of the legislature to provide a tax refund or credit or make a deposit into a reserve fund in order to comply with article VII, section 6, of the Constitution of the State of Hawaii, as provided in the same."

SECTION 3. Section 328L-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established in the state treasury the emergency and budget reserve fund, which shall be a special fund administered by the director of finance, and into which shall be deposited:

- (1) Twenty-four and one-half per cent of the moneys received from the tobacco settlement moneys under section 328L-2(b)(1);
- (2) Appropriations made by the legislature to the fund; and
- (3) Five per cent of the state general fund balance at the close of the fiscal year, whenever state general fund revenues for each of two successive fiscal years exceeds revenues for each of the preceding fiscal years by five per cent [~~pursuant to article VII, section 6 of the Hawaii constitution~~]. For the purpose of this section, the general fund balance at the close of the fiscal year shall be calculated [~~before~~ after any ~~tax~~];

(A) Tax refund or tax credit is [authorized] provided by the legislature [~~pursuant to article VII, section 6 of the Hawaii constitution, that is provided~~];

(B) Deposit into the emergency and budget reserve fund or another reserve fund is appropriated by the legislature; or

(C) Pre-payment of general obligation bond debt service or pension or other post-employment benefit liability is appropriated by the legislature;

during the same regular session as the transfer depositing such moneys to the emergency and budget reserve fund; provided that transfers shall not be made to the emergency and budget reserve fund whenever the balance of the emergency and budget reserve fund is equal to or more than ten per cent of general fund revenues for the preceding fiscal year. The transfer shall be executed by the director of finance [~~;~~ provided that all]. All moneys deposited into the emergency and budget reserve fund under paragraphs (1) and (2) and all moneys deposited under paragraph (3) shall be kept in separate and distinct accounts."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

**SECTION 5.** This Act shall take effect on June 30, 2017.  
(Approved April 26, 2017.)