

JAN 25 2006

S.B. NO. 2338

A BILL FOR AN ACT

MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH
FOR THE DEVELOPMENTAL DISABILITIES DIVISION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. This Act is recommended by the governor for
2 immediate passage in accordance with section 9 of article VII of
3 the Constitution of the State of Hawaii.

4 SECTION 2. The purpose of this Act is to appropriate
5 additional funds for the State's Medicaid home and community-
6 based services for the developmentally disabled or mentally
7 retarded program, also known as the title XIX waiver program,
8 within the department of health to meet an existing critical
9 funding emergency. The additional funds are necessary to
10 support current clients and to reasonably admit individuals into
11 the program to fulfill the settlement agreement in HDRC v. State
12 of Hawaii, U.S. Dist. Ct., Civil No. 03-00524 HG-KSC, and comply
13 with the United State's Supreme Court decision in Olmstead v.
14 L.C. ex rel Zimring, 527 U.S. 581, 119 S. Ct, 2176 (1999) and
15 the requirements of chapter 333F, Hawaii Revised Statutes, to
16 support people to live in the community.

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1 SECTION 3. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$6,807,562, or so
3 much thereof as may be necessary, for fiscal year 2005-2006, to
4 carry out the purposes of this Act.

5 SECTION 4. The sum appropriated shall be expended by the
6 department of health.

7 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: 

BY REQUEST

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR THE DEVELOPMENTAL DISABILITIES DIVISION.

PURPOSE: To appropriate \$6,807,562 in general fund revenues as an emergency appropriation to continue the Developmental Disabilities Division's (DDD) efforts to meet state approved target numbers under the current Medicaid Home & Community Based Service Waiver Program (HCBS Waiver Program), to reasonably admit individuals with Developmental Disabilities/Mental Retardation (DD/MR) into the program in fulfilling DDD's obligations under the HDRC v. State of Hawaii, U.S. Dist. Ct., Civil No. 03-00524 HG-KSC settlement agreement (Makin II settlement), to comply with the U.S. Supreme Court's Olmstead decision, and the requirements of chapter 333F, Hawaii Revised Statutes.

MEANS: Emergency appropriation of general funds for the Developmental Disabilities Division for fiscal year 2005-2006, in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

JUSTIFICATION: The Department of Health (DOH), Developmental Disabilities Division (DDD) is responsible for supporting those individuals eligible for DD/MR services. The DDD must admit eligible identified individuals into the DD/MR Medicaid-Title XIX HCBS Waiver Program. This fulfills the DDD's obligations under the Makin II settlement agreement and complies with the requirements of chapter 333F, to support people with DD/MR to live in the community.

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A critical funding emergency exists for the DDD because when it submitted its budget 150 new HCBS waiver admissions were anticipated. Since that budget request, at least 300 new admissions are estimated due to (1) the settlement of Makin II which requires new offers of HCBS waiver services to over 700 people, (2) some DD/MR individuals who were previously receiving 100% state funds are being redirected to the HCBS waiver program to comply with the HRS §333F requirement of maximizing state funds, and (3) there is a reported increase in new admissions of school-aged children with autism whose needs are no longer met by the Felix Consent decree. As of October 2005, the HCBS waiver program has 120 new admissions for the current fiscal year and is running out of money.

The general fund recommendation included in this measure has been made in accordance with the statutorily defined appropriation ceiling for the Executive Branch pursuant to section 37-92, Hawaii Revised Statutes. Including appropriations made up to and including the regular and special sessions of 2005, the Executive Branch appropriation ceiling for fiscal year 2005-2006 has already been exceeded by \$165,665,981 or 3.83 percent. Funding requested in this measure are for the purposes of providing services to the developmental disabilities population, and will result in the appropriation ceiling for the Executive Branch to now be exceeded in fiscal year 2005-2006 by \$6,807,562 or .16 percent. This current declaration takes into account additional general fund appropriations authorized for fiscal year 2005-2006 in this measure only, and does not include other general fund appropriations for fiscal year 2005-2006 that may be authorized for the Executive

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Branch in other legislation submitted to the Legislature during the regular session of 2006.

Impact on the public: More children previously on DDD's deferred list will receive non-educational services from DDD. Many more children with autism will also receive non-educational services. All individuals with DD/MR applying for State DDD services found eligible for such services will need to enroll into Medicaid and utilize available and appropriate services before utilizing State funded services. Without a waitlist, those eligible DD/MR individuals will be in receipt of services sooner due to the 90-day service provision required by the settlement.

Impact on the department and other agencies: Additional funding and human resources is necessary to maintain and ensure compliance with the Makin II settlement, the Olmstead Decision, chapter 333F HRS, and to prevent waitlists, service gaps, and unmet needs of these individuals in support of their lives within the community setting of their choice.

GENERAL FUND: \$6,807,562 (fiscal year 2005-2006).
OTHER FUNDS: None.
PPBS PROGRAM DESIGNATION: HTH-501
OTHER AFFECTED AGENCIES: Department of Budget and Finance.
EFFECTIVE DATE: Upon approval.