

JAN 22 2007

A BILL FOR AN ACT

MAKING AN EMERGENCY APPROPRIATION TO THE DEPARTMENT OF HEALTH.

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. Although funds were appropriated to the
5 department of health for comprehensive medical and health care
6 services for the Kahuku community for the fiscal period
7 beginning July 1, 2006, and ending June 30, 2007, a critical
8 funding emergency now exists.

9 The purpose of this Act is to request an emergency
10 appropriation of \$950,000 in general funds for fiscal year 2006-
11 2007 to fund a grant pursuant to chapter 42F, Hawaii Revised
12 Statutes, to Kahuku Hospital on Oahu; provided that the
13 legislature during this regular session of 2007, whether before
14 or after the effective date of this Act, authorizes such a
15 grant.

16 SECTION 3. Kahuku Hospital is a twenty-five bed facility
17 that provides emergency care, general acute care, surgery,
18 skilled nursing, ancillary care, and other health care services

1 to the residents of the north shore of Oahu from Waimea Bay to
2 Kahana. Because of continuing operating losses at the hospital,
3 the board of directors of Kahuku Hospital in November 2006 voted
4 to file a petition in the U.S. Bankruptcy Court under chapter 7
5 of the U.S. Bankruptcy Code to liquidate non-exempt assets and
6 close down the hospital on December 31, 2006. Due to the
7 compelling potential harm the closing of Kahuku Hospital could
8 bring to the community, the board of directors of Kahuku
9 Hospital has agreed to continue the hospital's operations into
10 the first half of 2007 under a reorganization proceeding
11 pursuant to chapter 11 of the U.S. Bankruptcy Code pending the
12 enactment of legislation that will have the effect of causing
13 Kahuku Hospital to be acquired by Hawaii health systems
14 corporation, or otherwise to become affiliated with Hawaii
15 health systems corporation in a manner that will permit Kahuku
16 Hospital to operate in a financially sound manner.

17 The department of health has released to Kahuku Hospital in
18 fiscal year 2006-2007, \$500,000 granted by the legislature
19 pursuant to chapter 42F, Hawaii Revised Statutes, and an
20 additional \$500,000 which represents the money awarded to Kahuku
21 Hospital through a chapter 103F, Hawaii Revised Statutes,
22 procurement for health and medical services in the Kahuku

1 community. It is estimated these moneys will permit Kahuku
2 Hospital to continue operating until the first week in March,
3 2007. The \$950,000 requested by this Act represents the
4 estimated cash shortfall after the expenditure of the department
5 of health's funds already released to Kahuku Hospital that will
6 be incurred for the period from January 1, 2007, through June
7 30, 2007, for projected operating losses, the costs associated
8 with the chapter 11 reorganization proceeding, and the transfer
9 of hospital operations to Hawaii health systems corporation.

10 It is in the public interest to keep Kahuku Hospital
11 operating in order to serve the residents of the north shore of
12 Oahu by enabling it to file for chapter 11 rather than for
13 chapter 7 bankruptcy, which would allow the hospital to:
14 continue operations; preserve its hospital license; retain its
15 certificate of need and critical access hospital designation; to
16 reorganize; and to settle its debts.

17 The legislature finds and declares that this Act is in the
18 public interest and for the public health, safety, and general
19 welfare.

20 SECTION 4. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$950,000, or so much
22 thereof as may be necessary, for fiscal year 2006-2007 to fund a

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1 grant pursuant to chapter 42F, Hawaii Revised Statutes, to
2 Kahuku Hospital on Oahu; provided that the legislature during
3 this regular session of 2007, whether before or after the
4 effective date of this Act, authorizes such a grant.

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

7 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:



10

BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Health

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

PURPOSE: To appropriate \$950,000 in State general funds for fiscal year 2006-2007, to fund a grant pursuant to chapter 42F, Hawaii Revised Statutes, to Kahuku Hospital on Oahu; provided that the legislature during this regular session of 2007, before or after the effective date of this Act, authorizes such a grant.

MEANS: Emergency appropriation of general funds to the Department of Health for fiscal year 2006-2007.

JUSTIFICATION: Kahuku Hospital is a twenty-five bed facility that has been serving the residents of the north shore of Oahu since 1929. The hospital provides an array of health care services including emergency care, general acute care, surgery, skilled nursing, ancillary care, and health education. It is one of nine hospitals in the State with a federal Medicare designation as a critical access hospital, which allows it to receive higher reimbursements amounting to about \$1,000,000 in additional revenue annually.

Because of continuing operating losses at the hospital of about \$1,500,000 a year, the board of directors of Kahuku Hospital in November 2006 voted to file a petition in the U.S. Bankruptcy Court under Chapter 7 of the U.S. Bankruptcy Code to liquidate non-exempt assets and close down the hospital on December 31, 2006.

The Kahuku Hospital Board of Directors agreed to defer implementation of its prior resolution to close the hospital and terminate its operations through a Chapter 7 liquidation proceeding and has further agreed to continue the hospital's operations into the first half of 2007 under a Chapter 11 reorganization proceeding. The continued operation of the hospital beyond June 30, 2007, depends on enactment of legislation authorizing that Kahuku Hospital be acquired by, or otherwise become an affiliate of, Hawaii Health Systems Corporation (HHSC) as part of and in connection with the hospital's Chapter 11 reorganization proceeding.

Until such time as Kahuku Hospital is acquired by or otherwise becomes affiliated with HHSC, the \$950,000 emergency appropriation is required to cover the estimated cash shortfall that will be incurred for the period from January 1, 2007, through June 30, 2007 for projected operating losses, the costs associated with the Chapter 11 reorganization proceeding, and the transfer of hospital operations to HHSC. The \$950,000 will be used to fund a grant pursuant to Chapter 42F, Hawaii Revised Statutes, to Kahuku Hospital, provided that the legislature in its 2007 regular session authorizes such a grant.

If not sufficiently funded, the hospital would be forced to close. The hospital would then lose its license, its certificate of need, and its critical access hospital designation. If any other entity were to then take over operations, it would have to apply for all of these authorizations from scratch. In that case, hospital-based

health care services would be effectively shut down in the area for an indefinite period of time.

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 session of 2006, the Executive Branch appropriation ceiling for fiscal year 2006-2007 has already been exceeded by \$415,349,859 or 8.51 percent. Funding requested in this measure is for a grant pursuant to Chapter 42F, Hawaii Revised Statutes, to Kahuku Hospital to maintain operations until it is acquired by or otherwise become affiliated with HHSC, and will result in the appropriation ceiling for the Executive Branch to now be exceeded in fiscal year 2006-2007 by \$950,000, or 0.02 percent. This current declaration takes into account additional general fund appropriations authorized for fiscal year 2006-2007 in this measure only, and does not include other general fund appropriations for fiscal year 2006-2007 that may be authorized for the Executive Branch in other legislation submitted to the Legislature during the regular session of 2007.

Impact on the public: The north shore and windward communities will benefit by having continued access to hospital-based medical and health care services, including an emergency room.

Impact on the department and other agencies: The continuing availability of these hospital-based medical and health care services supports the department's efforts to provide

critical access to emergency medical care, general acute care, surgery, skilled nursing and other health care services to rural areas in the state.

GENERAL FUND: \$950,000.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HTH-595.

OTHER AFFECTED AGENCIES: Hawaii health systems corporation.

EFFECTIVE DATE: Upon approval.