



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

Bill No. 36

Support  N

Date 2/9/09

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House Committee on Energy & Environmental Protection

H.B. 36, RELATING TO HEALTH

Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health

February 10, 2009  
9:00 a.m.

1 **Department's Position:** The department supports this bill with proposed amendments, as long as  
2 its implementation does not impact or replace the priorities set forth in the Executive Biennium Budget  
3 for Fiscal Years 2009-2010.

4 **Fiscal Implications:** This bill retains more of the fee-generated money in the Environmental Health  
5 Education Fund (EHEF or fund) by raising the threshold above which money is transferred from the  
6 EHEF to the general fund from \$300,000 to \$2,445,000. In the fiscal years 2006, \$432,028 was  
7 transferred into the general fund, and none in fiscal year 2007. For fiscal 2008, we are researching to  
8 see how much the EHEF transferred to the general fund.

9 **Purpose and Justification:** This bill seeks to increase resources for the department's Sanitation  
10 Branch's program operations, in part by increasing the amount of money the fund may retain, and by  
11 amending the purposes for which the fund may be used. The premise of the bill is that the majority of  
12 fees for the fund are collected by the department's sanitation program, and the references to a "clear  
13 nexus" show the bill's intent that a corresponding allocation of funds should be spent on sanitation.

14 We would like to propose amendments to the bill (attached). In summary, we are recommending  
15 the following:

- 1 (1) Amend the name of the fund to “Environmental Health Special Fund”. The overall purpose of  
2 the fund is to enhance and improve programs within the Environmental Health Services  
3 Division, which includes the Sanitation Branch and three other branches. This fund also  
4 supports the State Laboratory Division who generates fees from clinical laboratory personnel  
5 licenses.
- 6 (2) Expand the authorized use of the fund to include operating costs of program activities and  
7 functions, such as permitting, monitoring, investigations, and enforcement. Currently, the fund  
8 limits its use to education, training and outreach activities only. The proposed amendment would  
9 greatly improve the programs’ capabilities in providing professional government services to the  
10 regulated industries. The regulated industries, particularly within the area of food services, have  
11 expressed concerns of lack of adequate visibility by our inspectors. Greater visibility within this  
12 area of environmental health is essential to ensure adequate protection to the general public from  
13 food-borne illnesses and other environmental diseases and injuries.
- 14 (3) Repealing the section identifying the budget ceiling above which money is transferred from the  
15 EHEF to the general fund, currently at \$300,000. The proposed amendment would significantly  
16 increase the programs’ capacity, increasing the level of activities to improve services to the  
17 regulated industries who contribute to the fund.

18 The department has submitted its annual report on the fund to the legislature, and it is also  
19 available to all at <http://gen.doh.hawaii.gov/sites/LegRpt/2009/default.aspx>, report #3.

20 We would like to also propose a new Section 4 of the bill. This new section is to amend Section  
21 321-4.5, HRS, “Inspection of food establishments”, to remove the requirement for “registered”  
22 sanitarian to perform inspections. Previously, section 321-13, HRS, “Regulation of certain other  
23 occupations”, required the specified occupations, including sanitarians, be licensed. The legislature, in  
24 its 1999 amendments to section 321-13, HRS, removed the licensure requirement for sanitarians by

1    repealing the specific reference to sanitarians. This nullified the department’s authority to license or  
2    register sanitarians. The department is still allowed to employ a class of employees known as  
3    sanitarians so it is appropriate to leave “sanitarians’ in HRS Section 321-4.5.

4            Thank you for the opportunity to testify.

**H.B. No. 36**  
**Relating to Health**

The purpose of this bill is to

- (1) Change the name of the environmental health education fund to the sanitation and environmental health special fund; and
- (2) Allow the use of fund monies for sanitation program activities, including permitting, inspections, other monitoring, and enforcement.

SECTION 2. Section 321-11.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Other than the fees collected under subsection (b), all other fees collected under this section and section 321-15 shall be deposited into the environmental health [education] special fund established under section 321-27.”

SECTION 3. Section 321-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every person holding a license to practice any occupation specified in section 321-13(a)(1) shall reregister with the department of health every other year in accordance with the rules of the department, before February 1 except where superseded by federal law, and shall pay a reregistration fee. The failure, neglect, or refusal of any person holding such a license to reregister or pay the reregistration fee, after thirty days of delinquency, shall constitute a forfeiture of the person’s license; provided that the license shall be restored upon written application therefore together with a payment of all delinquent fees and additional late reregistration fee that may be established by the director of health. All fees collected pursuant to this section shall be deposited into the environmental health [education] special fund established under section 321-27.”

SECTION 4. Section 321-27, Hawaii Revised Statutes, is amended to read as follows:

“§321-27 Environmental health [education] special fund. (a) There is established within the department of health an environmental health [education] special fund into which shall be deposited all moneys collected from fees for permits, licenses, inspections, various certificates, variances, investigations, and reviews, pursuant to sections 321-11.5(c) and 321-15.

(b) Moneys in the fund shall be expended by the department for the purpose of enhancing the capacity of environmental health programs to:

(1) Conduct program activities including permitting, investigations, other monitoring, and enforcement;

[(1)](2) Improve public outreach efforts and consultations to businesses and industries regulated;

[(2)](3) Educate the public, staff, regulated businesses and industries [regulated thereunder];

[(3)](4) Plan for future growth and expansion to meeting emerging needs; and

[(4)](5) Provide training opportunities to ensure the maintenance of professional competence among [sanitation and] environmental health staff and administrators; provided that for environmental health programs, not more than \$90,000 of the fund may be utilized during any fiscal year [for] to fund administration, including the hiring of not more than two full-time equivalent personnel, and the purchase of office and electronic equipment.

[(c) Any amount in the fund in excess of [\$300,000] on June 30 of each year shall be deposited into the general fund.]

[(d)](c) The department of health shall submit a report to the legislature concerning the status of the environmental health [education] special fund, including, but not limited to, the amount of moneys taken in by and expended from the fund, and the sources of receipts and uses of expenditures, not less than twenty days prior to the convening of each regular session.”

SECTION 5. Section 321-4.5, Hawaii Revised Statutes, is amended to read as follows:

“**§321-4.5 Inspection of food establishments.** Inspections of food establishments may be performed by a [registered] sanitarian or a food and drug inspector.”

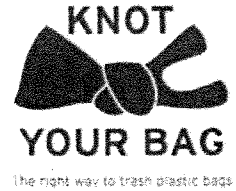
SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2009.



**HAWAII FOOD INDUSTRY ASSOCIATION**

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February 10, 2009

To: House Committee on Environmental Protection  
Rep. Hermina M. Morita, Chair  
Rep. Denny Coffman, Vice Chair

By: Richard C. Botti, President  
Lauren Zirbel, government Relations

Re: HB 36 RELATING TO HEALTH

In support.

Chairs & Committee Members:

Bill No. 36

Support Y N

Date 2/9

Time 8:08p

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We agree that the nexus between users fees and beneficiaries of the environmental health education fund should be reexamined as this measure does.

We 90% of fees to the fund coming from the sanitation branch of the department, there appears to be a shortage of services to those licensees.

Our concerns of course are food related. We have entered a new era with the food sanitation issues plaguing our country and Hawaii. Improvements must be made in a manner that lead and educate food growers, processors, food service establishments, food retailers, and even the consumers.

The educational fees collected should be allocated based on percentage of fees collected by each category of licensed establishments.