



**GOV. MSG. NO. 636**

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE  
GOVERNOR

June 25, 2010

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 25, 2010, the following bill was signed into law:

HB2688 HD1 SD2 CD1

A BILL FOR AN ACT  
RELATING TO HEALTH.  
**ACT 176 (10)**

Sincerely,

LINDA LINGLE

Approved by the Governor  
on JUN 25 2010

HOUSE OF REPRESENTATIVES  
TWENTY-FIFTH LEGISLATURE, 2010  
STATE OF HAWAII

**ACT 176**  
**H.B. NO.** 2688  
H.D. 1  
S.D. 2  
C.D. 1

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## A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. The legislature finds that section 37-52.3,  
2 Hawaii Revised Statutes, requires all special funds to reflect a  
3 clear nexus between the benefits sought and the charges made  
4 upon the users or beneficiaries of programs supported by the  
5 fund, as opposed to serving primarily as a means of providing  
6 the programs or users with an automatic stream of support that  
7 is removed from the normal budget and appropriations process.

8           The legislature further finds that there is a need to  
9 clarify the nexus between the benefits sought and charges made  
10 upon the users and beneficiaries of the environmental health  
11 education fund. The fund is the depository of fees collected by  
12 the department of health for permits, licenses, inspections,  
13 various certificates, variances, investigations, and reviews  
14 respecting:

15           (1) Certain occupations, practices, and persons that the  
16           department deems necessary to regulate for public  
17           health or safety reasons under section 321-13, Hawaii  
18           Revised Statutes, including clinical laboratory



1 directors, scientists, specialists, and technicians;  
2 cytotechnologists; tattoo artists; and environmental  
3 health professionals; and

4 (2) Facilities seeking licensure or certification,  
5 including hospitals, nursing homes, freestanding  
6 outpatient surgical facilities, care centers,  
7 laboratories, and special treatment centers, as  
8 provided in section 321-11.5, Hawaii Revised Statutes.

9 Section 321-27, Hawaii Revised Statutes, requires the  
10 department of health to use the moneys in the environmental  
11 health education fund to enhance the capacity of the  
12 environmental health programs.

13 The legislature further finds that over ninety per cent of  
14 the fees deposited into the environmental health education fund  
15 are collected by the sanitation branch of the department of  
16 health's environmental health services division. The sanitation  
17 branch is charged with implementing programs related to:

- 18 (1) Food protection;
- 19 (2) The regulation of barber shops, beauty parlors,  
20 massage parlors, tattoo shops, mortuaries, public  
21 swimming pools, and public laundries;



- 1 (3) The inspection of tenement houses, lodging houses, and
- 2 boarding houses;
- 3 (4) The licensing of tattoo artists and embalmers; and
- 4 (5) Enforcing the sanitation requirements for hospitals
- 5 and medical facilities.

6 While the legislature recognizes the importance of  
 7 providing a dedicated source of funding for environmental health  
 8 education activities, the legislature acknowledges that, in this  
 9 case, the fees collected should directly benefit the fee payers.

10 The purpose of this Act is to:

- 11 (1) Change the name of the environmental health education
- 12 fund to the sanitation and environmental health
- 13 special fund; and
- 14 (2) Allow the use of fund money for sanitation program
- 15 activities.

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

18 "(c) Other than the fees collected under subsection (b),  
 19 all other fees collected under this section and section 321-15  
 20 shall be deposited into the sanitation and environmental health  
 21 [~~education~~] special fund established under section 321-27."

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

3 "(a) Every person holding a license to practice any  
4 occupation specified in section 321-13(a)(1) shall reregister  
5 with the department of health every other year in accordance  
6 with the rules of the department, before February 1 except where  
7 superseded by federal law, and shall pay a reregistration fee.  
8 The failure, neglect, or refusal of any person holding [~~such~~] a  
9 license to reregister or pay the reregistration fee, after  
10 thirty days of delinquency, shall constitute a forfeiture of the  
11 person's license; provided that the license shall be restored  
12 upon written application therefor together with a payment of all  
13 delinquent fees and an additional late reregistration fee that  
14 may be established by the director of health. All fees  
15 collected pursuant to this section shall be deposited into the  
16 sanitation and environmental health [~~education~~] special fund  
17 established under section 321-27."

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

20 "§321-27 [~~Environmental~~] Sanitation and environmental  
21 health [~~education~~] special fund. (a) There is established  
22 within the department of health [~~an~~] the sanitation and



1 environmental health [~~education~~] special fund into which shall  
2 be deposited all moneys collected from fees for permits,  
3 licenses, inspections, various certificates, variances,  
4 investigations, and reviews, pursuant to sections 321-11.5(c)  
5 and 321-15.

6 (b) Moneys in the fund shall be expended by the department  
7 [~~for the purpose of enhancing~~] to partially fund the operating  
8 costs of program activities and functions authorized pursuant to  
9 section 321-11 to enhance the capacity of sanitation and  
10 environmental health programs to:

- 11 (1) Improve public outreach efforts and consultations to  
12 regulated businesses and industries [~~regulated~~];
- 13 (2) Educate the public, staff, and regulated businesses  
14 and industries [~~regulated thereunder~~];
- 15 (3) Plan for future growth and expansion to meet emerging  
16 needs; [~~and~~]
- 17 (4) Provide training opportunities to ensure the  
18 maintenance of professional competence among  
19 sanitation and environmental health staff and  
20 administrators[-  
21 ~~Not~~]; and



1       (5) Conduct program activities and functions of the  
2            sanitation branch, including permit issuance,  
3            inspections, and enforcement and the hiring of  
4            additional inspectors;  
5 provided that for environmental health programs, not more than  
6 [\$90,000] \$140,000 of the fund may be [utilized] used during any  
7 fiscal year for fund administration, including the hiring of not  
8 more than two full-time equivalent personnel, and the purchase  
9 of office and electronic equipment.

10       (c) Any amount in the fund in excess of [\$300,000]  
11 \$1,500,000 on June 30 of each year shall be deposited into the  
12 general fund.

13       (d) The department of health shall submit a report to the  
14 legislature concerning the status of the sanitation and  
15 environmental health [education] special fund, including[ ~~but~~  
16 not limited to, the]:

17       (1) The amount of moneys taken in by and expended from the  
18 fund[]; and [~~the~~]

19       (2) The sources of receipts and uses of expenditures,  
20 not less than twenty days prior to the convening of each regular  
21 session."



1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2010.

APPROVED this 25 day of JUN , 2010



GOVERNOR OF THE STATE OF HAWAII

