

# H.B. NO. 2305

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## 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 for immediate passage  
2 in accordance with section 9 of Article VII, section 9, of the  
3 Constitution of the State of Hawaii.

4           SECTION 2. Although funds were appropriated to the  
5 department of health for developmental disabilities division for  
6 the fiscal period beginning July 1, 2013, and ending June 30,  
7 2014, a funding emergency now exists. The program is now  
8 obligated to provide Medicaid Title XIX program services to the  
9 Compact of Free Association (COFA) population who are eligible  
10 for developmental disabilities (DD) services using 100% state  
11 funds for the current fiscal year, and the department will be  
12 unable to meet its fiscal obligation. The division is obligated  
13 to provide services under the State's Medicaid Title XIX  
14 programs to COFA adults and children pursuant to a preliminary  
15 injunction issued by the Honorable Michael Seabright in his  
16 Order Granting Plaintiffs' Motion for Preliminary Injunction  
17 filed December 13, 2010 in Korab, et al. v. McManaman, et al.,

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1 Civil No. 10-00483 JMS/KSC (USDC, Dist. of Hawaii). The Korab  
2 preliminary injunction provides the inclusion of the  
3 developmental disabilities division to provide the COFA  
4 population who are DD eligible with the Medicaid Title XIX  
5 program services pursuant to its fee-for-services provision.  
6 This emergency appropriation is necessary to continue existing  
7 services to meet the needs of the DD eligible COFA population  
8 and to continue funding of required services developed during  
9 the fiscal year. These services and the number of consumers  
10 served are mandated pursuant to Chapter 333F, Hawaii Revised  
11 Statutes and the Korab preliminary injunction. The purpose of  
12 this Act is to appropriate emergency funds to provide COFA  
13 adults and children who are DD eligible with ongoing services in  
14 Medicaid Title XIX programs of the developmental disabilities  
15 division.

16 SECTION 3. There is appropriated out of the general  
17 revenues of the State of Hawaii the sum of \$500,000 or so much  
18 thereof as may be necessary for fiscal year 2013-2014 to provide  
19 the Compact of Free Association population with developmental  
20 disabilities who are eligible with ongoing services of the  
21 developmental disabilities division of the department of health.

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1           The sum appropriated shall be expended by the department of  
2 health for the purposes of this Act.

3           SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

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BY REQUEST

JAN 21 2014

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**Report Title:**

Emergency Appropriation; Developmental Disabilities

**Description:**

Authorizes an emergency appropriation for FY 2013-2014 \$500,000 from general funds to the Department of Health, for ongoing services provided by the developmental disabilities division.

HB2305

JUSTIFICATION SHEET

DEPARTMENT: Health

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

PURPOSE: To authorize an emergency appropriation for fiscal year 2013-2014 of \$500,000 from general funds for the Department of Health (DOH) for the Developmental Disabilities Division (DDD).

MEANS: Emergency appropriation of general funds for DDD of the DOH for fiscal year 2013-2014.

JUSTIFICATION:

The Home and Community Based Services (HCBS) waiver program provides community alternatives for people with intellectual or developmental disabilities through various service providers.

The program is now obligated to provide Medicaid Title XIX program services to the Compact of Free Association (COFA) population who are eligible for developmental disabilities (DD) services using 100% state funds for the current fiscal year, and the department will be unable to meet its fiscal obligation. The division is obligated to provide services under the State's Medicaid Title XIX programs to COFA adults and children pursuant to a preliminary injunction issued by the Honorable Michael Seabright in his Order Granting Plaintiffs' Motion for Preliminary Injunction filed December 13, 2010 in Korab, et al. v. McManaman, et al., Civil No. 10-00483 JMS/KSC (USDC, Dist. of Hawaii).

This emergency appropriation is necessary to continue existing services to meet the needs of the DD eligible COFA population and to

continue funding of required services developed during the fiscal year. These services and the number of consumers served are mandated pursuant to Chapter 333F, Hawaii Revised Statutes and the Korab preliminary injunction.

The purpose of this Act is to appropriate emergency funds to provide COFA adults and children who are DD eligible with ongoing services in Medicaid Title XIX programs of the developmental disabilities division. Without the funding, the program will not be able to provide services to COFA adults and children

Taking the FY 2012-2013 average per client (APC) cost of 39,739 and anticipating the addition of approximately 47 COFA clients effective approximately March 2014, results in an approximate shortfall cost of \$500,000 to serve COFA clients in FY 2014

The general fund appropriation 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 2013, the Executive Branch appropriation ceiling for fiscal year 2013-2014 has already been exceeded by \$385,205,549 or 6.5 percent. Funding requested in this measure for the developmental disabilities division of the department of health will result in the appropriation ceiling for the Executive Branch to now be exceeded in fiscal year 2013-2014 by an additional \$500,000 or .008 percent. This current declaration takes into account additional general fund appropriations authorized for fiscal year 2013-2014 in this measure only, and does not include other general fund appropriations for fiscal year 2013-2014 that may be authorized for the Executive Branch in other

legislation submitted to the Legislature during the regular session of 2014.

Impact on the public: Failure to maintain services to individuals with I/DD and their families, and non-payment to HCBS providers.

Impact on the department and other agencies: Without the additional funds, DOH will not be able to provide services to COFA individuals who are DD eligible as mandated pursuant to Chapter 333F, Hawaii Revised Statutes and the Korab preliminary injunction.

GENERAL FUND: \$500,000.

OTHER FUNDS: \$0

PPBS PROGRAM

DESIGNATION: HTH-501.

OTHER AFFECTED

AGENCIES: Department of Human Services.

EFFECTIVE DATE: Upon approval.