

ACT 62

S.B. NO. 1270

A Bill for an Act Relating to the Hawaii Hurricane Relief Fund.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

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

SECTION 2. Hawaii is facing one of the most challenging economic periods in its history. Current economic conditions have necessitated difficult decisions by the State to balance an already precarious budget. The reduction-in-force in state government has reduced services to the public and has also had an adverse effect on the efficiency and effectiveness of certain key operational areas. Funding reductions have also affected the State's ability to provide services to those who are most vulnerable to setbacks during this time of economic uncertainty and have affected the State's ability to fuel and sustain an economic recovery.

The recent 8.9 magnitude earthquake in Japan and ensuing tsunami have resulted in severe consequences for Hawaii's economy, including reductions in tourism bookings and downward revisions of anticipated revenues. These economic injuries continue to burden the community.

The council on revenues has substantially reduced its estimate of general fund revenues for fiscal year 2010-2011.

The purpose of this Act is to appropriate Hawaii hurricane relief fund moneys from the hurricane reserve trust fund into the general fund to make funds available to balance the State's budget for fiscal year 2010-2011 and to maintain programs at levels determined to be essential for education, public health, and public welfare.

If additional moneys are required to address the general fund shortfall in fiscal year 2010-2011, this Act also authorizes the governor to transfer all or a portion of the remaining balance of the hurricane reserve trust fund into the general fund.

The legislature intends that the appropriated or transferred Hawaii hurricane relief fund moneys be expended after the expenditure, encumbrance, or allotment of the emergency and budget reserve funds and non-general funds designated for use in fiscal year 2010-2011 under Senate Bill No. 1293¹ and Senate Bill No. 120².

This Act also establishes a mechanism for the automatic replenishment of the hurricane reserve trust fund in fiscal years 2013-2014 and 2014-2015.

In the event that the hurricane reserve trust fund needs to be recapitalized before then, this Act authorizes the issuance of revenue bonds by the Hawaii hurricane relief fund for that purpose.

PART II

SECTION 3. For the purpose of this part, "Senate Bill No. 120"² and "Senate Bill No. 1293"¹ refer to those bills in the form enacted into law during the 2011 regular session.

SECTION 4. (a) Notwithstanding provisions of chapter 431P, Hawaii Revised Statutes, or any other law to the contrary, there is appropriated out of

the hurricane reserve trust fund established pursuant to section 431P-16, Hawaii Revised Statutes, the sum of \$42,000,000 or so much thereof as may be necessary for fiscal year 2010-2011 to be deposited into the general fund to balance the State's budget in fiscal year 2010-2011 and maintain programs at levels determined to be essential for education, public health, and public welfare; provided that this appropriation may be deposited into the general fund; provided further that:

- (1) The entire sum appropriated out of the emergency and budget reserve fund under Senate Bill No. 1293¹ is expended, encumbered, or allotted;
 - (2) The director of finance has identified and transferred non-general funds in accordance with Senate Bill No. 120²; and
 - (3) The governor, before depositing any funds from the hurricane reserve trust fund into the general fund pursuant to this section, notifies the president of the senate and speaker of the house of representatives in writing that the deposit shall be made.
- (b) The sum appropriated under this section shall be deposited by the director of finance into the general fund.

SECTION 5. (a) Notwithstanding chapter 36, 37, or 431P, Hawaii Revised Statutes, or any other law to the contrary, the governor by June 30, 2011, may transfer all or a portion of the remaining balance of the hurricane reserve trust fund for deposit into the general fund if the governor finds that the transfer is necessary to balance the State's budget in fiscal year 2010-2011; provided that the funds may be transferred into the general fund only after the occurrence of the following:

- (1) The actions required under section 4(a)(1) and (2) are completed;
 - (2) The entire sum appropriated out of the hurricane reserve trust fund under section 4 is expended, encumbered, or allotted; and
 - (3) The governor, before transferring any funds from the hurricane reserve trust fund pursuant to this section, notifies the president of the senate and speaker of the house of representatives in writing that the transfer shall be made and the amount of the transfer.
- (b) Any funds of the hurricane reserve trust fund transferred pursuant to this section shall be deposited by the director of finance into the general fund.
- (c) For the purpose of this section, the "remaining balance of the hurricane reserve trust fund" means the moneys remaining in the hurricane reserve trust fund after the deposit of the \$42,000,000 out of the hurricane reserve trust fund into the general fund pursuant to section 4.

SECTION 6. In order to determine whether funds appropriated or transferred out of the hurricane reserve trust fund under this part may be expended or encumbered, the director of finance may deposit the following funds into separate accounts within the general fund: funds from the emergency and budget reserve fund appropriated under Senate Bill No. 1293¹; non-general funds transferred or diverted into the general fund under Senate Bill No. 120²; funds from the hurricane reserve trust fund appropriated for deposit into the general fund under section 4; and funds from the hurricane reserve trust fund transferred into the general fund under section 5.

SECTION 7. (a) By January 1, 2012, the governor shall submit a report to the legislature identifying the programs and projects for which expenditures

were made from the funds that were transferred out of the hurricane reserve trust fund.

(b) Nothing in this Act shall be construed as prohibiting any funds that are transferred out of the hurricane reserve trust fund during fiscal year 2010-2011 that remain unexpended or unencumbered on June 30, 2011, from being carried over to fiscal year 2011-2012 as part of an unencumbered general fund surplus. If any funds are carried over, the governor shall identify the amount of the funds that are carried over, recommend whether the funds that are carried over should be returned to the hurricane reserve trust fund in the fiscal biennium 2011-2013, and, if the governor recommends that the funds that are carried over should be returned to the hurricane reserve trust fund, submit proposed legislation to effectuate the return. The information required under this subsection shall be submitted in the report required under subsection (a).

SECTION 8. Section 237-31, Hawaii Revised Statutes, is amended to read as follows:

“§237-31 Remittances. All remittances of taxes imposed by this chapter shall be made by money, bank draft, check, cashier’s check, money order, or certificate of deposit to the office of the department of taxation to which the return was transmitted. The department shall issue its receipts therefor to the taxpayer and shall pay the moneys into the state treasury as a state realization, to be kept and accounted for as provided by law; provided that:

- (1) The sum from all general excise tax revenues realized by the State that represents the difference between \$45,000,000 and the proceeds from the sale of any general obligation bonds authorized for that fiscal year for the purposes of the state educational facilities improvement special fund shall be deposited in the state treasury in each fiscal year to the credit of the state educational facilities improvement special fund; ~~and~~
- (2) A sum, not to exceed \$5,000,000, from all general excise tax revenues realized by the State shall be deposited in the state treasury in each fiscal year to the credit of the compound interest bond reserve fund~~[-]; and~~
- (3) A sum from all general excise tax revenues realized by the State that is equal to one-half of the total amount of funds appropriated or transferred out of the hurricane reserve trust fund under sections 4 and 5 of Act , Session Laws of Hawaii 2011, shall be deposited into the hurricane reserve trust fund in fiscal year 2013-2014 and in fiscal year 2014-2015; provided that the deposit required in each fiscal year shall be made by October 1 of that fiscal year.”

PART III

SECTION 9. The Hawaii hurricane relief fund, with the approval of the director of finance and the governor, is authorized to issue revenue bonds at such times and in such amounts not exceeding \$75,000,000 in the aggregate to maintain a balance of \$75,000,000 in the hurricane reserve trust fund established pursuant to section 431P-16, Hawaii Revised Statutes. The proceeds of any revenue bonds issued pursuant to this section shall be deposited into the hurricane reserve trust fund. The bonds shall be issued pursuant to part III of chapter 39, Hawaii Revised Statutes. General excise tax revenues deposited into the hurricane reserve trust fund under section 8 of this Act may be used, together with or separately from other revenues authorized under chapter 431P, Hawaii Revised

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Statutes, to pay the debt service on or redeem any revenue bonds issued under this section.

The authorization to issue revenue bonds under this section shall terminate on June 30, 2015, and shall be deemed invalid thereafter.

PART IV

SECTION 10. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the State, or its officers and employees, for any action taken by them in the performance of their powers and duties under this Act; provided that notwithstanding any other law to the contrary, this section shall not be construed to prohibit any law or rule adopted pursuant to law or chapters 661 and 662, Hawaii Revised Statutes. Nothing in this Act shall create an obligation, debt, claim, cause of action, claim for relief, charge, or any other liability of any kind whatsoever in favor of any person or entity without regard to whether that person or entity received any benefits under this Act, against the State, or its officers and employees. Nothing in this Act shall be construed as authorizing any claim against the State whatsoever.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval.

(Approved May 26, 2011.)

Notes

1. Act 30
2. Act 124.