

ACT 35

H.B. NO. 1018

A Bill for an Act Relating to State Funds.

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 Constitution of the State of Hawaii.

SECTION 2. The legislature finds that the federal funding received under the American Rescue Plan Act required states receiving elementary and secondary school emergency relief (ESSER) program III funds to meet certain maintenance of effort requirements by maintaining state support for elementary and secondary education in fiscal year 2022-2023 at least at the proportional level of the State's support for elementary and secondary education relative to the State's overall spending, averaged over fiscal years 2016-2017, 2017-2018

and 2018-2019. If the State fails to meet these maintenance of efforts requirements, the United States Department of Education has the authority to impose a range of enforcement options, including seeking recovery of the approximately \$412,300,000 in ESSER program III funds awarded to the state department of education.

As the State of Hawaii's economy has improved and general fund revenues have rebounded, the maintenance of effort obligation has become increasingly difficult to manage, in part due to certain large general fund appropriations made in fiscal year 2021-2022 and fiscal year 2022-2023 for non-educational purposes. These appropriations were made for worthy purposes but have the impact of increasing the denominator for maintenance of effort calculations if expended in fiscal year 2022-2023. However, these worthy purposes would not be adversely affected by statutory adjustments to modestly delay expenditures beyond fiscal year 2022-2023 so the expenditures no longer impact the maintenance of effort calculations.

The purpose of this Act is to reduce the potential for federal maintenance of effort enforcement actions against the State by delaying the encumbrance and expenditure of various large general fund appropriations made in the 2022 legislative session until or beyond July 1, 2023, so they are no longer part of the fiscal year 2022-2023 maintenance of effort calculation.

PART II

SECTION 3. The legislature finds that Act 220, Session Laws of Hawaii 2022, transferred the stadium authority from the department of accounting and general services to the department of business, economic development, and tourism for administrative purposes. Section 14 of Act 220 also transferred appropriations made for the stadium authority to the department of business, economic development, and tourism.

The legislature further finds that a modest delay in encumbrance and expenditure of the lump sum general fund appropriation in fiscal year 2023 for deposit into the stadium development special fund made in Act 88, Session Laws of Hawaii 2021, as amended by Act 248, Session Laws of Hawaii 2022, would not have an adverse effect.

The purpose of this part is to delay the encumbrance and expenditure of the fiscal year 2023 appropriation for deposit into the stadium development special fund made in the 2022 legislative session to beyond July 1, 2023, so that it is no longer part of the fiscal year 2023 maintenance of effort calculation.

SECTION 4. Act 88, Session Laws of Hawaii 2021, as amended by paragraph 20 of section 4 of Act 248, Session Laws of Hawaii 2022, is amended by amending section 17.3 to read as follows:

“SECTION 17.3. Provided that out of the general fund appropriation for ~~[spectator events and shows—Aloha Stadium (AGS889);]~~ stadium authority (BED180), the sum of \$49,500,000 or so much thereof as may be necessary for fiscal year 2022-2023 shall be deposited into the stadium development special fund, to be expended for stadium costs for operations, maintenance, and contract costs to developers of the stadium~~[-];~~ provided that any unexpended or unencumbered balances from the appropriation shall lapse to the general fund on June 30, 2024; provided further that funds shall not be expended nor deposited into the stadium development special fund before July 1, 2023.”

PART III

SECTION 5. Act 115, Session Laws of Hawaii 2022, is amended by amending section 4 to read as follows:

“SECTION 4. In accordance with article VII, section 6, of the Hawaii State Constitution, there is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000,000 or so much thereof as may be necessary for fiscal year 2022-2023 for deposit into the pension accumulation fund established under section 88-114, Hawaii Revised Statutes[-]; provided that any unexpended or unencumbered balances from the appropriation shall lapse to the general fund on June 30, 2024; provided further that funds shall not be expended nor deposited into the pension accumulation fund before July 1, 2023.”

PART IV

SECTION 6. Act 236, Session Laws of Hawaii 2022, is amended by amending section 3 to read as follows:

“SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000,000 or so much thereof as may be necessary for fiscal year 2022-2023 to be deposited into the rental housing revolving fund established in section 201H-202, Hawaii Revised Statutes[-]; provided that any unexpended or unencumbered balances from the appropriation shall lapse to the general fund on June 30, 2024; provided further that funds shall not be expended nor deposited into the rental housing revolving fund before July 1, 2023.”

PART V

SECTION 7. Act 296, Session Laws of Hawaii 2022, is amended by amending section 6 to read as follows:

“SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$25,000,000 or so much thereof as may be necessary for fiscal year 2022-2023 to be deposited into the Hawaii retirement savings special fund[-]; provided that any unexpended or unencumbered balances from the appropriation shall lapse to the general fund on June 30, 2024; provided further that funds shall not be expended nor deposited into the Hawaii retirement savings special fund before July 1, 2023.

There is appropriated out of the Hawaii retirement savings special fund the sum of \$25,000,000 or so much thereof as may be necessary for fiscal year 2022-2023 for the State to make matching contributions of up to \$500 to the accounts of the first 50,000 covered employees who participate in the Hawaii retirement savings program for twelve consecutive months after initial enrollment[-]; provided that any unexpended or unencumbered balances from the appropriation shall lapse to the general fund on June 30, 2024; provided further that funds shall not be expended before July 1, 2023.”

PART VI

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on June 29, 2023.

(Approved June 1, 2023.)