

JAN 2 8 2015

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# A BILL FOR AN ACT

RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM.

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

1           SECTION 1. Act 217, Session Laws of Hawaii 2012, as  
2 amended by Act 141, Session Laws of Hawaii 2013, and Act 123,  
3 Session Laws of Hawaii 2014, is amended by amending section 2 as  
4 follows:

5           (1) By amending the definitions of "net patient service  
6 revenue" and "private hospital" in section     -3, Hawaii Revised  
7 Statutes, to read as follows:

8           "Net patient service revenue" means gross revenue from  
9 inpatient and outpatient care provided to hospital patients  
10 converted to net patient revenue utilizing data from Worksheets  
11 G-2 and G-3 of each hospital's medicare cost report for fiscal  
12 year [~~2011-2012.~~] 2012-2013. If the hospital is new or did not  
13 file a fiscal year medicare cost report, the department shall  
14 obtain the hospital's net patient service revenue from the most  
15 recent period available.

16 "Private hospital" means those non-public hospitals named in  
17 attachment A of the medicaid section 1115 demonstration waiver

1 that were in operation in calendar year [~~2013~~] 2014 and are  
2 currently operating."

3 (2) By amending subsections (c) and (d) of  
4 section -5, Hawaii Revised Statutes, to read as follows:

5 "(c) The hospital sustainability fee for inpatient care  
6 services may differ from the fee for outpatient care services  
7 but the fees shall not in the aggregate exceed three per cent of  
8 net patient service revenue as derived from the hospital's  
9 medicare cost report ending during state fiscal year [~~2011-~~  
10 ~~2012-~~] 2012-2013. The inpatient hospital sustainability fee  
11 shall be 2.175 per cent of net inpatient hospital service  
12 revenue. The outpatient hospital sustainability fee shall be  
13 three per cent of net outpatient hospital service revenue. Each  
14 fee shall be the same percentage for all affected hospitals,  
15 subject to subsection (d).

16 (d) The department shall exempt children's hospitals,  
17 federal hospitals, public hospitals, rehabilitation hospitals,  
18 psychiatric hospitals, and any hospital that was not in  
19 operation during any part of calendar year [~~2013~~] 2014 from the  
20 hospital sustainability fees on inpatient services. In  
21 addition, the department shall exempt hospitals with net  
22 outpatient revenue of less than \$45,000,000 per year (based on  
23 fiscal year [~~2011-2012~~] 2012-2013 reports), public hospitals,

1 and any hospital that was not in operation during any part of  
2 calendar year [~~2013~~] 2014 from the hospital sustainability fee  
3 on outpatient care services."

4 (3) By amending subsection (a) of section -10, Hawaii  
5 Revised Statutes, to read as follows:

6 "(a) The department shall use moneys from the hospital  
7 sustainability program special fund to make direct payments to  
8 private hospitals in an amount equal to \$85,000,000 to cover the  
9 uncompensated care costs incurred by private hospitals for  
10 serving medicaid and uninsured individuals during state fiscal  
11 year [~~2014-2015-~~] 2015-2016."

12 (4) By amending subsection (c) of section -10, Hawaii  
13 Revised Statutes, to read as follows:

14 "(c) Each eligible hospital's quarterly payment shall be  
15 equal to one-quarter of its uncompensated care costs for the  
16 fiscal year in which payment is made, as derived from the  
17 uncompensated care costs reported by all private hospitals for  
18 fiscal year [~~2011-2012-~~] 2012-2013."

19 SECTION 2. Act 217, Session Laws of Hawaii 2012, as  
20 amended by section 2 of Act 141, Session Laws of Hawaii 2013,  
21 and as amended by section 2 of Act 123, Session Laws of Hawaii  
22 2014, is amended by amending section 5 to read as follows:

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1           "SECTION 5. This Act shall take effect on July 1, 2012,  
2 and shall be repealed on June 30, [~~2015~~] 2016; provided that  
3 section       -4, Hawaii Revised Statutes, in section 2 of this  
4 Act, and section 3 of this Act, shall be repealed on December  
5 31, [~~2015~~] 2016; and provided further that the amendment to  
6 section 36-30(a), Hawaii Revised Statutes, in section 3 of this  
7 Act, shall not be repealed when section 36-30, Hawaii Revised  
8 Statutes, is reenacted on June 30, 2015, pursuant to section 34  
9 of Act 79, Session Laws of Hawaii 2009."

10           SECTION 3. Act 123, Session Laws of Hawaii 2014, is  
11 amended by amending section 7 to read as follows:

12           "SECTION 7. This Act shall take effect on June 29, 2014;  
13 provided that [~~section~~]:

- 14           (1) Section 5 shall take effect on July 1, 2014[-];  
15           (2) The amendments made to sections 36-27(a) and 36-30(a),  
16               Hawaii Revised Statutes, in sections 3 and 4 of this  
17               Act shall not be repealed when sections 36-27 and 36-  
18               30, Hawaii Revised Statutes, are reenacted on June 30,  
19               2015, pursuant to section 34 of Act 79, Session Laws  
20               of Hawaii 2009; and  
21           (3) Sections 3 and 4 shall be repealed on December 31,  
22               2016."

1 SECTION 4. Section 36-27, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Except as provided in this section, and  
4 notwithstanding any other law to the contrary, from time to  
5 time, the director of finance, for the purpose of defraying the  
6 prorated estimate of central service expenses of government in  
7 relation to all special funds, except the:

- 8 (1) Special out-of-school time instructional program fund  
9 under section 302A-1310;
- 10 (2) School cafeteria special funds of the department of  
11 education;
- 12 (3) Special funds of the University of Hawaii;
- 13 (4) State educational facilities improvement special fund;
- 14 (5) Convention center enterprise special fund under  
15 section 201B-8;
- 16 (6) Special funds established by section 206E-6;
- 17 (7) Housing loan program revenue bond special fund;
- 18 (8) Housing project bond special fund;
- 19 (9) Aloha Tower fund created by section 206J-17;
- 20 (10) Funds of the employees' retirement system created by  
21 section 88-109;
- 22 (11) Hawaii hurricane relief fund established under chapter  
23 431P;

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- 1 (12) Hawaii health systems corporation special funds and
- 2 the subaccounts of its regional system boards;
- 3 (13) Tourism special fund established under section 201B-
- 4 11;
- 5 (14) Universal service fund established under section 269-
- 6 42;
- 7 (15) Emergency and budget reserve fund under section 328L-
- 8 3;
- 9 (16) Public schools special fees and charges fund under
- 10 section 302A-1130;
- 11 (17) Sport fish special fund under section 187A-9.5;
- 12 (18) Glass advance disposal fee established by section
- 13 342G-82;
- 14 (19) Center for nursing special fund under section 304A-
- 15 2163;
- 16 (20) Passenger facility charge special fund established by
- 17 section 261-5.5;
- 18 (21) Court interpreting services revolving fund under
- 19 section 607-1.5;
- 20 (22) Hawaii cancer research special fund;
- 21 (23) Community health centers special fund;
- 22 (24) Emergency medical services special fund;

- 1 (25) Rental motor vehicle customer facility charge special  
2 fund established under section 261-5.6;
- 3 (26) Shared services technology special fund under section  
4 27-43;
- 5 (27) Automated victim information and notification system  
6 special fund established under section 353-136;
- 7 (28) Deposit beverage container deposit special fund under  
8 section 342G-104;
- 9 (29) Hospital sustainability program special fund under Act  
10 217, Session Laws of Hawaii 2012, as amended by Act  
11 141, Session Laws of Hawaii 2013[+], and Act 123,  
12 Session Laws of Hawaii 2014;
- 13 (30) Nursing facility sustainability program special fund  
14 under Act 156, Session Laws of Hawaii 2012;
- 15 (31) Hawaii 3R's school improvement fund under section  
16 302A-1502.4; and
- 17 (32) After-school plus program revolving fund under section  
18 302A-1149.5,
- 19 shall deduct five per cent of all receipts of all special funds,  
20 which deduction shall be transferred to the general fund of the  
21 State and become general realizations of the State. All  
22 officers of the State and other persons having power to allocate  
23 or disburse any special funds shall cooperate with the director

1 in effecting these transfers. To determine the proper revenue  
2 base upon which the central service assessment is to be  
3 calculated, the director shall adopt rules pursuant to chapter  
4 91 for the purpose of suspending or limiting the application of  
5 the central service assessment of any fund. No later than  
6 twenty days prior to the convening of each regular session of  
7 the legislature, the director shall report all central service  
8 assessments made during the preceding fiscal year."

9 SECTION 5. Section 36-30, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

- 11 "(a) Each special fund, except the:
- 12 (1) Transportation use special fund established by section  
13 261D-1;
  - 14 (2) Special out-of-school time instructional program fund  
15 under section 302A-1310;
  - 16 (3) School cafeteria special funds of the department of  
17 education;
  - 18 (4) Special funds of the University of Hawaii;
  - 19 (5) State educational facilities improvement special fund;
  - 20 (6) Special funds established by section 206E-6;
  - 21 (7) Aloha Tower fund created by section 206J-17;
  - 22 (8) Funds of the employees' retirement system created by  
23 section 88-109;



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- 1 (9) Hawaii hurricane relief fund established under section
- 2 431P-2;
- 3 (10) Convention center enterprise special fund established
- 4 under section 201B-8;
- 5 (11) Hawaii health systems corporation special funds and
- 6 the subaccounts of its regional system boards;
- 7 (12) Tourism special fund established under section 201B-
- 8 11;
- 9 (13) Universal service fund established under section 269-
- 10 42;
- 11 (14) Emergency and budget reserve fund under section 328L-
- 12 3;
- 13 (15) Public schools special fees and charges fund under
- 14 section 302A-1130;
- 15 (16) Sport fish special fund under section 187A-9.5;
- 16 (17) Center for nursing special fund under section 304A-
- 17 2163;
- 18 (18) Passenger facility charge special fund established by
- 19 section 261-5.5;
- 20 (19) Court interpreting services revolving fund under
- 21 section 607-1.5;
- 22 (20) Hawaii cancer research special fund;
- 23 (21) Community health centers special fund;

- 1 (22) Emergency medical services special fund;
- 2 (23) Rental motor vehicle customer facility charge special  
3 fund established under section 261-5.6;
- 4 (24) Shared services technology special fund under section  
5 27-43;
- 6 (25) Nursing facility sustainability program special fund  
7 established pursuant to Act 156, Session Laws of  
8 Hawaii 2012;
- 9 (26) Automated victim information and notification system  
10 special fund established under section 353-136; and
- 11 (27) Hospital sustainability program special fund under Act  
12 217, Session Laws of Hawaii 2012, as amended by Act  
13 141, Session Laws of Hawaii 2013, and Act 123, Session  
14 Laws of Hawaii 2014,
- 15 shall be responsible for its pro rata share of the  
16 administrative expenses incurred by the department responsible  
17 for the operations supported by the special fund concerned."

18 SECTION 6. There is appropriated out of the hospital  
19 sustainability program special fund the sum of \$50,000,000 or so  
20 much thereof as may be necessary for fiscal year 2015-2016 to be  
21 used for purposes consistent with the hospital sustainability  
22 program special fund.

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1 SECTION 7. The sums appropriated shall be expended by the  
2 department of human services for the purposes of this Act.

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

5 SECTION 9. This Act, upon its approval, shall take effect  
6 on June 29, 2015; provided that the amendments to sections 36-  
7 27(a) and 36-30(a), Hawaii Revised Statutes, by sections 4 and 5  
8 of this Act shall not be repealed when sections 36-27 and 36-30,  
9 Hawaii Revised Statutes, are reenacted on June 30, 2015,  
10 pursuant to section 34 of Act 79, Session Laws of Hawaii 2009,

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INTRODUCED BY: 

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BY REQUEST

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S.B. NO. 1102

**Report Title:**

Hospital Sustainability Program; Hospital Sustainability Program Special Fund

**Description:**

Amend Act 217, Session Laws of Hawaii 2012, as amended by Act 141, Session Laws of Hawaii 2013 and Act 123, Session Laws of Hawaii 2014, to continue the Hospital Sustainability Program by extending the sunset date of the Act, updating the referral dates in the statute, and to revise the funding amount for the hospital sustainability program for fiscal year 2015-2016. Effective June 29, 2015.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO THE HOSPITAL SUSTAINABILITY PROGRAM.

PURPOSE: To continue the Hospital Sustainability Program, established by Act 217, Session Laws of Hawaii 2012, as amended by Act 141, Session Laws of Hawaii 2013 and Act 123, Session Laws of Hawaii 2014, by extending the sunset date of the Act to June 30, 2016, updating the referral dates in the statute, appropriating funding out of the Hospital Sustainability Program Special Fund for fiscal year 2015-2016, and making technical amendments to ensure that the Special Fund is, through December 31, 2016, exempted from the central service expenses assessment and the administrative expenses assessment under sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, respectively.

MEANS: Amend sections 2 and 5 of Act 217, Session Laws of Hawaii 2012, as amended by Act 141, Session Laws of Hawaii 2013, and section 7 of Act 123, Session Laws of 2014, and adding appropriation language. In addition, this bill makes technical amendments to section 5 of Act 156 and to Act 123 to preserve the exemptions under sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, and includes similar technical language in section 9 of this bill.

JUSTIFICATION: Act 217, Session Laws of Hawaii 2012, as amended by Act 141, Session Laws of Hawaii 2013, and Act 123, Session Laws of Hawaii 2014, established a Hospital Sustainability Program and the Hospital Sustainability Program Special Fund (the Special Fund). The Special Fund receives moneys from the hospital sustainability fee, which is used to receive federal Medicaid matching funds under the Medicaid Section 1115 Demonstration Waiver and is used to increase

reimbursements to the hospitals. The Hospital Sustainability Program will be repealed on June 30, 2015, with funding provisions to be repealed on December 31, 2015.

This bill proposes to extend the Hospital Sustainability Program and the Special Fund for another year.

The Hospital Sustainability Program levies a fee on non-governmental hospitals and uses that revenue largely to leverage federal funds and increase reimbursement to hospitals, with a greater benefit to those providing proportionately more services to Medicaid recipients and the uninsured. These additional moneys will increase the sustainability of hospitals in Hawaii to continue as a critical part of the safety net.

In fiscal year 2012-2013, the hospitals were assessed \$40,103,774 in sustainability fees and received \$77,468,401 in additional reimbursements. In fiscal year 2013-2014, the providers were assessed \$44,490,855 in sustainability fees and received additional reimbursements of \$81,309,367. In fiscal year 2014-2015, the providers will be assessed \$46,621,994 in sustainability fees and are estimated to receive additional reimbursements of \$84,687,653.

The twelve percent of the revenues from the fees collected are to be used by the Department to increase and improve services for Medicaid program recipients.

Technical Amendments: Act 217, as amended by Act 141 and Act 123, exempts the Special fund from assessments for central services expenses and administrative expenses under sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, preserving approximately \$3,000,000 each year to support increased reimbursement to private hospitals. Both of

these statutes will be repealed on June 30, 2015, pursuant to section 34 of Act 79, Session Laws of Hawaii 2009, and will be reenacted in the form in which they read on June 30, 2009. This will eliminate the Special Fund's exemptions from the assessments and reduce the funds available for hospital reimbursement.

This bill extends the Hospital Sustainability Program for one year past the repeal and reenactment date of June 30, 2015, and extends the Special Fund for an additional six months thereafter. Therefore, unless the proposed technical amendments are adopted, the exemptions from the central service expenses and administrative expenses assessments will be lost when sections 36-27(a) and 36-30(a), Hawaii Revised Statutes, are repealed and reenacted on June 30, 2015, and the Special Fund will then be subject to those assessments. The DHS estimates that the Special Fund would be subject to the central service expenses assessment for the period July 1, 2015, through June 30, 2016, in the amount of \$2,500,000, and the administrative expenses assessment for the same period in the amount of \$500,000.

Impact on the public: Hawaii residents benefit by having more sustainable hospitals and, thereby, have increased access to necessary medical care. Health care services for low-income, vulnerable residents will be increased and improved.

Impact on the department and other agencies: The Department of Human Services will benefit by receiving some additional funds to support its programs.

GENERAL FUND: None.

OTHER FUNDS: \$50,000,000 Hospital Sustainability Program Special Fund.

PPBS PROGRAM

DESIGNATION: HMS 401.

OTHER AFFECTED

AGENCIES: None.

EFFECTIVE DATE: June 29, 2015.