



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

GOV. MSG. NO. 845

July 11, 2006

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

I am transmitting herewith SB2727 SD1 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB2727 SD1 HD2 CD1

A BILL FOR AN ACT RELATING TO
NEUROTRAUMA.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Lingle".

LINDA LINGLE

VETO

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO. 2727
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO NEUROTRAUMA.

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

1 SECTION 1. In 2002, the legislature passed Act 160,
2 Session Laws of Hawaii, which recognized the needs of
3 individuals who suffer from the physical, cognitive, and
4 behavioral consequences of neurotrauma. A special fund was
5 established to provide for neurotrauma education, assistance to
6 individuals and families to identify and obtain access to
7 services, and the creation of a neurotrauma registry within the
8 state.

9 While there was no provision in the measure to fund direct
10 services to neurotrauma survivors, the conference committee
11 report noted that the department of health and the neurotrauma
12 advisory board would gather data to determine the extent to
13 which direct services could reasonably be funded within the
14 limits of the resources available in the special fund. The
15 conference committee report also noted that this information
16 would be presented during the next legislative session so that
17 the issue could be revisited.



1 The legislature finds that the neurotrauma special fund has
2 collected nearly \$1,000,000 since the fund began in January
3 2003. Based on that finding, as well as the need for services
4 that exists among individuals with neurotrauma, the legislature
5 finds that it is appropriate to permit funds from the
6 neurotrauma special fund to be used to pay for direct services
7 to individuals suffering from neurotrauma.

8 The legislature also finds that moneys from the neurotrauma
9 special fund should be appropriated to obtain federal and
10 private grant matching funds and create a "traumatic brain
11 injury waiver." The legislature believes that state funds
12 should be used to maximize the receipt of federal funds whenever
13 feasible.

14 The purpose of this Act is to allow the neurotrauma special
15 fund to be used to pay for direct services to neurotrauma
16 survivors and require that moneys from the special fund be
17 appropriated to obtain federal and private grant matching funds.

18 SECTION 2. Section 321H-4, Hawaii Revised Statutes, is
19 amended by amending subsections (b) and (c) to read as follows:

20 "(b) The fund shall be used for the purpose of funding and
21 contracting for services relating to neurotrauma as follows:

22 (1) Education on neurotrauma;



1 (2) Assistance to individuals and families to identify and
2 obtain access to services;

3 (3) Creation of a registry of neurotrauma injuries within
4 the State to identify incidence, prevalence,
5 individual needs, and related information; [and]

6 (4) Services that assist individuals with neurotraumatic
7 injuries, including but not limited to cognitive
8 therapy, personal assistance, respite care, and day
9 health programs; and

10 ~~(4)~~ (5) Necessary administrative expenses to carry out
11 this chapter not to exceed two per cent of the total
12 amount collected.

13 (c) Moneys in the neurotrauma special fund [~~may~~] shall be
14 appropriated to obtain federal and private grant matching funds,
15 subject to section 321H-4(a)(2)."

16 SECTION 3. The department of human services shall apply
17 for a traumatic brain injury waiver no later than December 31,
18 2007.

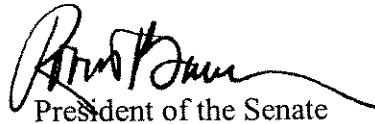
19 SECTION 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.


21 SECTION 5. This Act shall take effect upon its approval.

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.

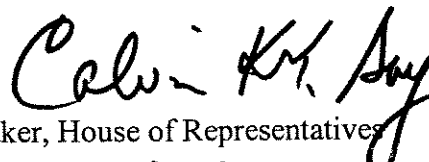


President of the Senate


Clerk of the Senate

**THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAII**

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.


Speaker, House of Representatives

Clerk, House of Representatives

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 2727, entitled "A Bill for an Act Relating to Neurotrauma," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 2727 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 2727 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 26th day
of June, 2006.



LINDA LINGLE
Governor of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2006

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2727

Honorable Members
Twenty-Third Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2727, entitled "A Bill for an Act Relating to Neurotrauma."

The purpose of this bill is to require the Neurotrauma Special Fund, established by section 321H-4, Hawaii Revised Statutes, to be used to pay for services to assist individuals with neurotraumatic injuries, in addition to its existing purposes of education, access assistance, and creation of a neurotrauma registry. The bill also requires the Department of Human Services to apply by December 31, 2007, to the Centers for Medicare and Medicaid Services for a medicaid home and community-based waiver for traumatic brain injuries ("TBI").

This bill is objectionable because, first, the limited amount of moneys currently in the fund (approximately \$1,000,000), combined with expected deposits into the fund, are not sufficient to provide the direct services listed in this bill to the estimated number of persons who might need services per year in Hawaii. Each year there are approximately 1,500 individuals hospitalized in Hawaii with TBI. A survivor of TBI typically faces five to ten years of intensive treatment, with estimated lifetime costs exceeding \$4,000,000 per survivor. A mandate to provide similar services to clients of the Developmental Disabilities Division costs the State \$38,000 per client per year. Applying those figures, the estimated annual cost to the State to provide these direct services to all individuals with TBI would exceed \$57,000,000.

Second, the Departments of Human Services and of Health do not have the detailed data necessary to determine the identification and needs of target populations; which services to include in the waiver that will provide cognitive therapy, personal assistance, respite care, and day health programs as mandated by the bill; the number of people to be served; the availability of service providers in the community; or differentiation among varying levels of TBI. More time is needed to collect and analyze this data, because without it, the departments cannot meaningfully develop and select the services to be included in a TBI waiver application.

Third, while the amendments do not direct the State how to apportion the moneys in the Neurotrauma Special Fund among the purposes specified in the bill, they do add a mandate that moneys in the fund "shall be used for the purpose of funding and contracting for services . . . that assist individuals with neurotraumatic injuries, including but not limited to cognitive therapy, personal assistance, respite care, and day health programs." Because this mandate is estimated to cost much more than the total amount of money available in the Neurotrauma Special Fund, this bill may subject the State to adverse legal action and liability for failure to provide direct services to individuals with TBI.

Fourth, the moneys in the Neurotrauma Special Fund are designated to assist individuals with a spectrum of neurotraumatic injuries, not just traumatic brain injuries. However, this measure intends to use most of the funds only for services to the Medicaid-eligible traumatic brain injury waiver clients. The potential adverse impact of denying services to other neurotrauma patients is inappropriate and unfortunate.

STATEMENT OF OBJECTIONS
SENATE BILL NO. 2727
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For the foregoing reasons, I am returning Senate Bill
No. 2727 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii