

LINDA LINGLE
GOVERNOR



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Comptroller

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**STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P.O. BOX 119
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TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
ECONOMIC DEVELOPMENT & BUSINESS CONCERNS
ON
February 12, 2008

H.B. 2094

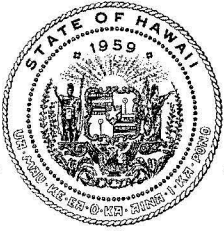
RELATING TO PROCUREMENT

Chair Yamashita and members of the Committee, thank you for the opportunity to testify on H.B. 2094.

The Department of Accounting and General Services (DAGS) opposes this bill. It does not address any procurement issue; it simply imposes the Legislative will upon the governmental body that solicits funds "to cover the costs and expenses of state-sponsored endeavors to generate business opportunities and goodwill for the State". By requiring that the funds raised by the governmental body be deposited in the general fund and disbursed pursuant to legislative appropriation, the Legislature appears to be saying that it is better able to determine how funds should be spent in spite of the fact that the contributors were willing to entrust the funds to the disposition of the fundraising government body.

DAGS recommends that this bill be held.

Thank you for the opportunity to testify on this matter.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
THEODORE E. LIU
Director

Department of Business, Economic Development, and Tourism
before the

**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS
CONCERNS**

Tuesday, February 12, 2008
9:00 A.M.

State Capitol, Conference Room 325

in consideration of
HB2094
RELATING TO PROCUREMENT.

Chair Yamashita, Vice Chair Wakai, and Committee members.

The Department of Business, Economic Development and Tourism respectfully opposes HB2094, which requires that monies received by, on behalf of, or for the benefit of a government body for state-sponsored endeavors that are designed to generate business opportunities and goodwill for the state, shall be deposited into the general fund and disbursed pursuant to legislative appropriation. The bill appropriates \$50,000 in fiscal year 2008-2009 to offset initial costs and expenses for DBEDT's trade missions and endeavors.

While we think we understand the intent of the proposers of the bill, if passed, the bill may result in unforeseen and unintended consequences.

We note that under its enabling statute (HRS 201-2.5) DBEDT is specifically authorized to collect fees for “services rendered or products provided” by the department.

Allow me to suggest that the drafters of DBEDT’s statutes clearly understood that this department not only would have the reason to charge fees, but that it would be reasonable and in the state’s interest for the department to do so. The practice of collecting and using such fees has been in place for decades.

One example of such a fee is when Hawaii companies are asked to offset a portion of the costs of a booth or other display space at a trade show on the U.S. mainland or abroad. This happens because the state often needs to subsidize the costs of such a booth; if the state does not, the costs of attendance may be beyond the budget of a small business in Hawaii. In these cases, the state collects the participants’ portion and makes one lump sum payment to the organizers of the trade show. Under this bill, the amount collected would go into the general fund. It is also standard practice for state sponsoring a “pavilion” or similar aggregated display space at a trade show, to have the state collect fees or reimbursements for common expenses and pay the same in the aggregate to the show’s sponsors. To have each individual participant pay its portion directly would be burdensome and may not be accepted by the sponsor. In these cases, the state plays the necessary role as a facilitator. Finally, also as a facilitator, the state often collects the registration fees for all Hawaii participants to a conference or trade show and remits that amount in one aggregated payment. This bill would prevent such facilitating efforts and would impose an additional burden on participants.

Besides “pass-through” payments, there are reasons why the state may desire a participant to help pay for part of the costs of a trade show or trade mission. The costs of trade shows or trade missions often exceed the public budgets. It is also proper to have those who benefit from the activity – participants – offset some of the costs.

Two specific examples of the budgetary impact of HB2094 are as follows:

- DBEDT participated in BIO 2006, the premier life sciences trade show in the U.S.

Twenty-six individuals representing seventeen companies and the University of Hawaii participated with DBEDT. The total cost of the event was \$50,000, and the University of Hawaii contributed \$10,000 toward the endeavor. This contribution represents 20% of the total cost for the event.

- In May 2006, DBEDT organized a mission to Fukuoka with events that included a consumer show, trade show and networking event celebrating the 25th Anniversary of the Hawaii-Fukuoka Sister-State relationship. DBEDT leveraged monies from the Department of Agriculture, Oahu Visitors Bureau, Fukuoka Kenjinkai and the Fukuoka Prefectural Government to fund this business and cultural event. For the consumer and trade show, ten Hawaii business paid participation fees that covered 15% of the production costs, or \$5,000. For the networking event, the Fukuoka Prefectural government covered 33% of the cost, or \$10,000.

Had this bill been in effect, the department would have expended \$25,000 out of the \$50,000 proposed to be appropriated by the bill and for just two economic development projects.

The cumulative effect of the bill will impact DBEDT's marketing and promotion budget and may significantly reduce the amount of DBEDT's business and economic development marketing and promotional activities. Major trade shows and larger scale missions would be unfeasible due to the higher cost of putting on the event without private sector financial assistance.

Although the bill appropriates a one time infusion of \$50,000 for state-sponsored endeavors, there is no way to know in advance if the amount would be sufficient to cover the costs of state-sponsored and state-produced business, economic development or goodwill activities for the biennium. After the \$50,000 appropriation has been depleted, the department would bear the entire cost of such events, an expense that we have not factored into our budgets.

It strikes me that one of the unintended consequences of this bill is to restrict the department's ability to raise private sector, institutional or individual support for programs that are in the state's best interests. I wish to note that this type of fund-raising is a "best practice" nationwide. For example, at the end of 2006, the U.S. Department of Commerce conducted a Business Development Mission to China, led by Commerce Secretary Gutierrez. That mission charged \$8,500 per company and \$3,000 for each additional company representative. The funds are used by the federal government in exactly the same way Hawaii does: to offset the costs of business development and marketing missions and to save public funds. I note that for the 2005 China Mission, the department only charged participating companies and individuals \$500. The large

corporate sponsorships, which garnered so much attention, were in fact used to subsidize the costs of the smaller Hawaii companies and individuals.

Due to the budgetary implications of this bill, and the resulting fiscal impact upon DBEDT's targeted programs, we respectfully urge that this bill not be passed.

To respond to concerns that have been raised over the method of funding of these missions, should the legislature wish, DBEDT would be happy to work with the legislature to develop funding guidelines. For example, requiring a State Procurement Office or State Ethics Commission opinion be obtained prior to engaging in any fund-raising effort. These guidelines may accomplish the legislative intent, without affecting the state's efforts to develop business and economic development marketing and promotional activities.

Thank you for the opportunity to offer these comments.

Statement of
Yuka Nagashima
Executive Director & CEO
High Technology Development Corporation
and
President
High Technology Innovation Corporation,
A 501(c)(3), Not for Profit Organization
Attached to the Department of Business, Economic Development & Tourism
before the

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS CONCERNS

Tuesday, February 12, 2008
9:00 A.M.
State Capitol, Conference Room 325

in consideration of

HB 2094 RELATING TO PROCUREMENT.

Chair Yamashita, Vice Chair Wakai, and Members of the Committee on Economic Development & Business Concerns.

The High Technology Development Corporation and the High Technology Innovation Corporation respectfully oppose HB 2094, which proposes to have all moneys received for the benefit of a government body pursuant to a solicitation by the government body be deposited into the general fund and disbursed pursuant to legislative appropriation. This proposal also appropriates funds to the Department of Business, Economic Development & Tourism to cover state-sponsored endeavors to generate business opportunities and goodwill for the state.

Although the intent of the bill may be to address a specific situation or types of solicitation activities, the HB 2094 would apply to all moneys received from solicitation efforts of the High Technology Innovation Corporation (HTIC), a non-profit corporation established by the legislature. HTIC would be significantly affected by the passage of this bill and exemptions contained in HB 2094 would not cover the circumstances of HTIC operations.

HTIC was established by the 2005 Legislature as a not-for profit organization. One of the purposes for creating HTIC was to be able to identify, solicit and obtain funding from non-state resources to support the projects of HTIC and the High Technology Development Corporation. The HTIC board has the power to accept gifts, devises, bequests, and property

from private sources. As a not-for-profit organization, HTIC would be able to solicit donors for contributions that would qualify as a tax deductible donation.

HTIC must comply with the procurement code even if it is a not-for-profit organization. The insertion of 103D-102 (b) would directly impact HTIC ability to retain moneys solicited and received to further its programs and projects. The legislative review and approval of appropriation requests is a prospective process for activities/expenditures to be incurred potentially six through eighteen months in the future. Depending when the moneys are received, it is not practical to have to wait for the next legislative session to obtain an appropriation from the legislature before the moneys can be expended.

Thank you for the opportunity to testify on this bill.