

**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**

February 12, 2008
9:00am
State Capitol, Conference Room 325

in consideration of
HB 2914
RELATING TO SKILLED NURSING FACILITIES

Chair Yamashita, Vice-Chair Wakai, and Committee members:

The department would like to comment on HB 2914, which adds skilled nursing facilities to the definition of “medical and health care services,” and treats each new skilled nursing facility or facility expanding its operations outside an enterprise zone as operating within an enterprise zone for purposes of eligibility to receive all benefits provided in enterprise zones. There have been many good ideas introduced this legislative session that support the State’s economic development goals. We note, however, that costs related to this bill were not addressed in the Executive’s Supplemental Budget, and request that associated costs of this bill not displace the priorities contained in that budget.

Established in 1986, the Enterprise Zones (EZ) Partnership Program is one of the State’s few funded programs that assist for-profit businesses. The State provides tax

incentives such as GET exemptions, State unemployment insurance credit, and income tax credit. The Counties may also provide additional benefits such as building permit priority processing, building permit fee waiver, grading permit fee waiver, and property tax rebates.

At the forefront of the EZ Program is the concept that the health, safety, and welfare of the people of Hawaii are dependent upon the continual encouragement, development, growth, and expansion of the private sector, and that there are certain areas in the State that need the particular attention of government to help attract private sector investment. The EZ Partnership Program helps to stimulate business and industrial growth in areas that would result in neighborhood revitalization of those areas by means of regulatory flexibility and tax incentives.

DBEDT appreciates the intent of this bill to encourage the development and establishment of skilled nursing facilities. A recent DBEDT report indicated that the average age of Hawaii residents is expected to increase. The share of people age 65 and over will increase 22 percent in 2035, up from 13.8 percent in 2005. With Hawaii's aging population growing and continuing to grow, these facilities provide much needed services that are becoming much more in demand.

However, DBEDT does have concerns regarding HB 2914's allowing any "skilled nursing facility" located outside designated enterprise zones eligibility. Determining what facilities would be considered "new" or "existing" and the applicable hiring increase, according to the EZ statute, whether a business is "new" or "existing" is predicated on zone establishment. In other words, if a zone was designated in 2008 and

an applying business was already established in the area prior to 2008, it would be considered an existing business. For businesses outside the zone, there is no baseline date to determine “existing” or “new” status, and the required employee growth since each status has a different requirement.

We recommend that language of HB 2914 be amended to include “skilled nursing facilities” located inside designated State Enterprise Zones. In this way, we are encouraging the development of nursing facilities and attracting development to areas that are medically underserved.

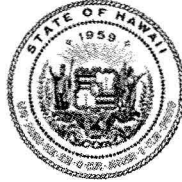
DBEDT defers comment to the Department of Health on those areas of our State most in need of skilled nursing facilities.

DBEDT also defers comment to the Department of Taxation on any tax implications of allowing the eligibility of skilled nursing facilities under the definition of “medical and health care services.”

Thank you for the opportunity to offer these comments.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



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HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS CONCERNS

TESTIMONY REGARDING HB 2914 RELATING TO SKILLED NURSING FACILITIES

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 12, 2008
TIME: 9:00AM
ROOM: 325

This measure seeks to allow Skilled Nursing Facilities, as defined, to qualify for the tax benefits provided by the Enterprise Zone program administered by the Department of Business, Economic Development & Tourism.

The House Committee on Health passed this measure unamended.

The Department of Taxation (Department) takes **no position** on this measure, provides technical comments, and cites the revenue impact of this legislation. **The Department defers to the Department of Business, Economic Development & Tourism on the necessity of including these facilities within the current zones as a matter of policy.**

ENTERPRISE ZONES, GENERALLY

Currently, the administration of Enterprise Zones to encourage economic development in distressed areas of the State has proven an effective partnership between the State and private enterprise. Given the current healthcare crises where a lack of healthcare talent exists in certain specialties, this legislation could prove useful.

However, the Department questions the mechanics of this legislation because it defeats the purpose of "zones" when a Skilled Nursing Facility may be located outside of a zone. The Department suggests setting forth new tax incentives for these facilities if that is the goal because simply extending Enterprise Zone incentives to Skilled Nursing Facilities located outside a zone seems unnecessary and confusing. "Deeming" a business within a zone, when in fact it is not, ultimately defeats the purpose of economic "zoning," which is to target business development based upon geography.

EFFECTIVE DATE

Because this bill applies to tax incentives applicable to both the income tax law and the general excise tax law, the effective date should be amended to apply to a taxable year and to gross receipts received after a certain date. For example, this bill should be amended to read: "This bill shall take effect on upon approval; provided that section 1 shall apply to taxable years beginning and gross proceeds received after December 31, 2008;"

REVENUE IMPACT

This bill will result in the following revenue loss—

- \$10.2 million in year one;
- \$5.8 million in year two;
- \$5.6 million in year three.

Testimony of Thomas J. Smyth, CEcD
Before the
House Committee on Economic Development & Business Concerns
Tuesday, February 12, 2008
9:00 am Room 325

on

HB2914 Relating to Skilled Nursing Facilities

Chair Yamashita, Vice Chair Wakai, and Members of the Committee:

I recently retired from the Department of Business, Economic Development & Tourism but my testimony today as an individual is based on over 20 years experience managing the Hawaii Enterprise Zone Partnership.

I support the intent and purpose of HB 2914 that adds skilled nursing facilities to the list of businesses eligible to participate in the Hawaii Enterprise Zone Partnership.

EZ eligibility includes a variety of business types that, over time, the Legislature has determined are important to stimulate by offering time-limited tax incentives. Skilled nursing facilities certainly are an important segment of the overall health care industry and thus it would be appropriate to provide these benefits.

I have two major concerns with HB2914:

1. If a business is located outside an EZ as provided in Section 1 of the bill, it is not possible to determine whether the business is “new”, that is starting after the EZ they are in was designated by the Governor; or “existing,” meaning that they were already in that location when the EZ was designated. This determination is very significant because “new” businesses need only grow their workforce by 10% in the first year after EZ enrollment and maintain that worker level, while “existing” businesses must grow by 10% each of the seven years of EZ participation, more than doubling their workforce.
2. There is also an issue of fairness to other types of businesses that are EZ eligible and who have taken the step of moving into an EZ, that by definition is intended to revitalize areas with higher unemployment or lower family incomes using census data. If some businesses can get the same tax benefits without being in these areas of need, there would not be the tax equity that we expect from our taxation system.

The existing Enterprise Zones include all of Molokai, Lanai and Kauai. They include almost all of Maui Island and the Big Island. It is on Oahu where these concerns over being outside an EZ would be most evident.

East Honolulu from Waikiki and Kaimuki to Hawaii Kai does not have any zones, nor do the Kailua and Kaneohe areas. It does not seem fair to use this program, which is clearly intended to help lower income areas, as the vehicle to help skilled nursing facilities, not in those areas.

I would suggest that SNF's simply be given a GET exemption and income tax credits wherever they are located. The length of time and need to grow their workforce would have to be determined as a matter of tax policy.

May I also point out that whether an EZ firm is classified as "new" or "existing," it still must add workers and maintain or grow that workforce. Given the severe shortage of the skills needed in an SNF, that is: RNs, LPNs and CNAs, it is likely that many of the facilities in or out of an EZ will fail to qualify for EZ benefits. Among other consequences of not qualifying is that the firm does not receive a GET exemption. An EZ firm acting in good faith that it will qualify, cannot pass on the GET since it does not expect to pay the tax. Thus, if not qualified, it must pay the tax from its remaining revenues, often a considerable expense.

In summary, I urge you to consider these significant limitations on adding SNF to the EZ eligibility list as proposed in HB 2914. It would be better, as a function of your policy-making role to just exempt them from GET, as are many other types of activity.

Thank you for the opportunity to provide testimony.