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SENATE COMMITTEE ON WAYS & MEANS

TESTIMONY REGARDING HB 602 HD 2 SD 1 RELATING TO EDUCATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: MARCH 27, 2008

TIME: 9:45AM

ROOM: 211

This bill would result in the redirection of up to \$90,000,000 in general excise tax revenues to the Educational Facilities Improvement Special Fund by extending the repeal date of Act 304, Session Laws of Hawaii 2006 to 2012.

The Department of Taxation ("Department") **opposes this funding mechanism.**

I. THE DEPARTMENT CANNOT SUPPORT GET REVENUE DIVERSIONS.

The Department is always cautious about policy that redirects general excise tax revenue away from the general fund and into specific special funds. The Department routinely opposes funding mechanisms such as this because the general excise tax represents over one-half of the State's overall operating revenue stream. The Department strongly prefers that a direct appropriation be the means for funding this program so that the amount may be budgeted and prioritized just as any other program.

II. REVENUE IMPACT

This bill will result in an indeterminate revenue impact to the general fund.

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 602, H.D. 2, S.D. 1

March 27, 2008

RELATING TO EDUCATION

This bill seeks to amend the sunset date for Act 304, SLH 2006, Relating to Education, from June 30, 2008 to June 30, 2012. The Act increased the amount of general excise tax revenues required to be deposited into the State Educational Facilities Improvement special fund each fiscal year from \$45 million to \$90 million for public school capital improvement program needs.

We oppose this bill.

Any proposal to provide mandatory revenue diversion of funds limits the State's ability to fund priorities and could negatively impact the State's general fund financial plan. We urge this committee to instead follow the more financially sound approach of providing funding for public school capital improvement requirements based on need, funding ability, and statewide priorities.

WRITTEN COMMENTS

Date: 03/27/2008

Committee: Senate Ways and Means

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent of Education

Title of Bill: HB 0602,HD2,SD1,SSCR2972 RELATING TO EDUCATION

Purpose of Bill: Extends the sunset date for Act 304, Session Laws of Hawaii 2006, which requires that \$90,000,000 be deposited into the state treasury in each fiscal year to the credit of the State Educational Facilities Improvement Special Fund for public school capital improvement program needs. (SD1)

Department's Position: The Department of Education supports this measure. The State Educational Facilities Improvement Special Fund (SEFI) is used to plan, design, acquire lands, construct, and maintain public school facilities and other facilities under the jurisdiction of the Department of Education (DOE), except public libraries.

By statutorily establishing the minimum amount to be deposited into the SEFI at \$90 million, we can be assured that at least \$90 million of capital improvement program funds appropriated by the Legislature will be allotted for the DOE to expend. If the sunset date of June 30, 2008 for Act 304, SLH 2006 is not repealed, appropriations exceeding \$45 million are not assured of being released to the DOE, directly affecting our ability to deliver to the schools the projects appropriated by the Legislature.

However, we expect that the need to fund improvements to public school facilities will be ongoing. Therefore, we respectfully request that the June 30, 2008 sunset date be repealed entirely, rather than just extended to 2012.

Thank you for the opportunity to testify.

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SUBJECT: GENERAL EXCISE, Extend earmarking for school facilities special fund

BILL NUMBER: HB 602, SD-1

INTRODUCED BY: Senate Committee on Education

BRIEF SUMMARY: Amends Act 304, SLH 2006, to extend the June 30, 2008 sunset date to June 30, 2012 for earmarking \$90 million in general excise tax revenues and the proceeds from the sale of general obligation bonds to be deposited to the state educational facilities improvement special fund.

EFFECTIVE DATE: June 29, 2008

STAFF COMMENTS: The legislature by Act 304, SLH 2006, increased the amount of general excise tax revenues or general obligation bond proceeds earmarked for the state educational facilities improvement special fund from \$45 million to \$90 million for public school capital improvement needs. Act 304 also provided that this increased earmarking shall be repealed on June 30, 2008, which this measure proposes to extend for another four years.

The earmarking provisions of this law were established more than a decade ago when the state general fund was flush with cash surpluses. While the rationale was to secure dedicated funding for educational facilities, the real intent of this provision was to hide those surplus funds from public scrutiny, creating the illusion that there was no surplus. However, when the economy turned sour as the Japanese bubble burst, lawmakers took back the general excise tax revenues and replaced the funding source with the proceeds of bond sales. The level of earmarking at the time was \$90 million. However, when pressed for an estimate of how much the department could reasonably undertake in the construction of facilities, it was discovered that the department could only handle about \$45 million in projects each year. The level of earmarking was thus reduced to \$45 million in 1999 and increased to \$90 million in 2006.

Rather than perpetuating this practice of earmarking tax revenues or bond proceeds, lawmakers should repeal the special fund and the earmarking for this purpose. This would force the board of education to explain why they are not capable of delivering badly needed school facilities on a timely basis.

Even the 1989 Tax Review Commission noted that use of this type of special fund financing is a "departure from Hawaii's sound fiscal policies and should be avoided." It also noted that special funds are appropriate where the revenues to the funds maintain some direct connection between a public service and the beneficiary of that service. The Commission found that special funds which merely set aside general funds cannot be justified as such actions restrict budget flexibility, create inefficiencies, and lessen accountability. It recommended that such programs can be given priority under the normal budget process without having to resort to this type of financing.

Seconding the Commission's harsh criticism was the State Auditor's report issued in February of 1991

that recognized that the “tax is levied on the general public rather than specific beneficiaries of the program,” and thus the fund did not reflect a “direct link between user benefits and user charges.” The Auditor recommended that the fund be repealed and that educational facilities should be funded through the normal capital improvements appropriations process. Rather than perpetuating the improper use of special funds, the legislature should take the advice of the Auditor and repeal the state educational facilities improvement special fund. Now more than ever, lawmakers should repeal the automatic funding mechanism and make administrators justify their expenditures for the construction of educational facilities or explain their inability to do so.

This would force the board and department of education to deliver these repairs on a timely basis or explain why they could not do the necessary repairs and maintenance. With the automatic earmarking, there is no reason to return each year to the legislature and be held accountable for the lack of action. This is called accountability.

Digested 3/25/08