



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FOURTH LEGISLATURE, 2008**

ON THE FOLLOWING MEASURE:

S.B. NO. 2951, RELATING TO GRANTS-IN-AID.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Thursday, January 31, 2008 **TIME:** 9:00 AM

LOCATION: State Capitol, Room 211

Deliver to: testimony@capitol.hawaii.gov, Room: Legislature's Public Access Room, via e-mail 1 copy

TESTIFIER(S): Mark J. Bennett, Attorney General
or Blair Goto, Deputy Attorney General

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Chair Baker and Members of the Committee:

The Attorney General provides the following recommendations and comments concerning this measure.

The bill would create a temporary social services planning committee, a permanent grant review committee administratively attached to the department of human services, and a block grant appropriation system for grants and possibly subsidies. The grant review committee would review applications for "grants-in-aid," adopt administrative rules to govern the block grant process, and allocate block grant funds to specific grantees.

Initially, we note a subject-title problem. Article III, section 14 of the Hawaii constitution provides, in pertinent part: "Each law shall embrace but one subject, which shall be expressed in its title. . . ." The title of this bill is "Relating to Grants-in-aid." Grants-in-aid is a term that traditionally refers to legislative appropriations to individual counties. See, e.g., Act 10, §3, 2007 Haw. Sess. Laws 1st Spec. Sess. 978, 979, and Haw. Rev. Stat. §214-1 (2001). Here, the purpose of the bill is to improve the process for administering grants. Accordingly, the bill's title does not properly encompass the subject of the bill, which includes grants to specified recipients and also subsidies. For this proposal to

proceed, its contents must be inserted into another bill with a suitable title.

We note that the prefatory language of section 7 of the bill (beginning on page 5 of the bill) should refer to "Chapter 42F" in lieu of "Section 42F" because section 7 of the bill purports to amend all sections of chapter 42F. Moreover, without listing the chapter number and title within the quotation marks, the chapter number and title will be repealed.

We also note several internal inconsistencies in the bill. For example, the amended definition of "Grant" in section 7 of the bill (on pages 5-6) reads: ". . . means an award of state funds as determined by the grant review committee, by an appropriation to a specified recipient, to support the activities of the recipient and permit the community to benefit from those activities." Under the block grant system that the bill would establish, however, there will be no appropriation to a specified recipient.

The bill is also unclear whether the new grant system would also cover subsidies. The bill would now require that requests for subsidies be submitted to the grant review committee (page 6, lines 11-14) and would repeal the process for submitting an application to the legislature for a subsidy (page 6, lines 12-20). On the other hand, the definition of subsidy still refers to an award of state funds by the legislature by an appropriation to a specified recipient.

Another internal inconsistency is the reference to a state agency designated as the expending agency in sections 42F-104 and 42F-106 (page 9, lines 5-6 and 21). Conceivably, the grant review committee could be identified in the block grant appropriation as the expending agency; however, such a designation would place a crushing burden on the grant review committee and the department of human services to contract with every recipient and to monitor and evaluate the performance of all grant contracts in the State.

Lastly, we note that the bill proposes to repeal section 42F-105 (that requires that grant and subsidy contracts and appropriations be subject to the allotment system). However, as proposed, section 42F-107 still refers to block grant moneys not being "allocated or released" by the Governor.

We respectfully request that this measure be amended to address the concerns that we have noted above.

LATE TESTIMONY

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
SENATE BILL NO. 2951

January 31, 2008

RELATING TO GRANTS-IN-AID

Senate Bill No. 2951 amends Chapter 42F, HRS, to change the current method of appropriating grants by creating a grant review committee to review applications for grants which would be funded through a block grant appropriated by the Legislature. The committee will be administratively attached to the Department of Human Services and would determine the specific grant recipient. It appears that the Legislature would continue to fund subsidies following the existing procedures as contained in Chapter 42F, HRS.

We offer the following comments:

1. Article III, Section 14 of the Constitution of the State of Hawaii, states, in part, that "each law shall embrace but one subject, which shall be expressed in its title." The title of this bill is "relating to grants-in-aid." The term "grant-in-aid" does not appear anywhere in the text of Chapter 42F, HRS, Grants and Subsidies. The term "grant-in-aid" does appear in the title of Chapter 214, HRS, Grants-in-Aid for County Capital Improvement Projects.
2. The present Section 42F-105, HRS, which stipulates that contracts to disburse grants and subsidies shall be subject to the allotment system, is deleted. It is unclear what was intended by this deletion as no concomitant change was made to Section 37-33, HRS,

which requires that all appropriations made are subject to the allotment system governed by Sections 37-31 through Sections 37-42, HRS.

3. The new Section 42F-105, HRS, Block Grant, requires the grant review committee to distribute the block grant appropriation to specific recipients according to criteria promulgated by rule. This appears to contradict other sections of Chapter 42F, HRS, which require an appropriation for a grant or subsidy to be disbursed by a contract between the State agency designated the expending agency and the recipient. It is unclear whether the grant review committee is intended to be the State agency or whether the committee will designate the State agency.

4. Presently, all grants and subsidies are appropriated to State agencies at the time the appropriation is made. This ensures that the grant or subsidy serves a public purpose by supporting the objectives of the State program in which the appropriation is made and is assumed to have been made after review and discussion among legislators, the requesting entity, and the State agency expected to execute the contract and monitor the expenditure of funds. It is unclear what benefit would be derived if this process were instead conducted solely by the grant review committee.