

TESTIMONY BY GEORGINA K. KAWAMURA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON JUDICIARY  
ON  
HOUSE BILL NO. 37

February 12, 2009

PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 6, OF THE HAWAII CONSTITUTION, TO REPEAL THE REQUIREMENT THAT A TAX REFUND OR TAX CREDIT BE PROVIDED TO TAXPAYERS WHENEVER THE GENERAL FUND BALANCE AT THE CLOSE OF TWO SUCCESSIVE FISCAL YEARS EXCEEDS FIVE PERCENT OF GENERAL FUND REVENUES FOR EACH OF THE TWO FISCAL YEARS

House Bill No. 37 proposes an amendment to the Hawaii Constitution to repeal the requirement that a tax refund/credit be provided to taxpayers whenever the general fund balance at the close of two successive fiscal years exceeds five percent of general revenues for each of the two successive fiscal years.

The Department of Budget and Finance opposes repeal of the mandatory tax refund/credit. We believe that the constitutional mandate should be maintained. This mandatory refund/credit serves as a reminder that tax collections in excess of requirements should be returned to Hawaii's taxpayers. Even if it is just a nominal refund, the underlying principle is sound.

LINDA LINGLE  
GOVERNOR

JAMES R. AIONA, JR.  
LT. GOVERNOR



KURT KAWAFUCHI  
DIRECTOR OF TAXATION

SANDRA L. YAHIRO  
DEPUTY DIRECTOR

STATE OF HAWAII  
DEPARTMENT OF TAXATION  
P.O. BOX 259  
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510  
FAX NO: (808) 587-1560

**HOUSE COMMITTEE ON JUDICIARY  
TESTIMONY REGARDING HB 37**

**PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 6, OF THE HAWAII CONSTITUTION, TO REPEAL THE REQUIREMENT THAT A TAX REFUND OR TAX CREDIT BE PROVIDED TO TAXPAYERS WHENEVER THE GENERAL FUND BALANCE AT THE CLOSE OF TWO SUCCESSIVE FISCAL YEARS EXCEEDS FIVE PERCENT OF GENERAL FUND REVENUES FOR EACH OF THE TWO FISCAL YEARS.**

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

**DATE: FEBRUARY 12, 2009**

**TIME: 2:05PM**

**ROOM: 325**

---

This measure proposes a constitutional amendment to repeal the current requirement that the Legislature provide taxpayers with a mandated refund when the general fund balance exceeds 5% of revenues for two fiscal years in a row.

The Department of Taxation (Department) **opposes** this measure and **offers alternatives**.

**PURPOSE OF THE CONSTITUTIONAL REFUND**—The purpose of the mandated refund is to ensure that the government is not overtaxing beyond what expenditures require. By not having the current constitutional "check" in the system that returns excess revenues, there remains no incentive to tax only the optimal amount of revenue to carry out the State's business. The government should not be in the business of making a profit and should only levy a sufficient amount of tax to carry out operations and no more.

**PREFERENCE FOR FUNDING THE EMERGENCY & BUDGET RESERVE FUND**—The Department prefers other measures this session that seeks to direct excess revenues to the important emergency and budget reserve fund in order to ensure that the general fund can always be balanced. Proposals that would utilize excess revenues to build the reserves of this fund are found in the administration measure HB 1067 and SB 1624

As a result of the slowing economies locally, nationally, and globally, the State's economy and commensurate tax revenue collections have dropped substantially. Fiscal prudence is critical.

Department of Taxation Testimony

HB 37

February 12, 2009

Page 2 of 2

By having a built-in mechanism to return excess revenues to the taxpayers that built the reserve; or to invest the reserve for when times are tough, either alternative is prudent.

Though the Department would prefer that all excess revenues be returned to the taxpayers that built the reserve, given past practices of returning \$1 per taxpayer for the constitutional refund, allowing the Legislature to invest the reserves in the emergency fund may prove to be a more reasonable alternative when the \$1 per taxpayer refund is a mere gesture.

---

# TAXBILLSERVICE

---

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

---

SUBJECT: CONSTITUTIONAL AMENDMENT, Repeal excess revenues provision

BILL NUMBER: HB 37

INTRODUCED BY: M. Oshiro

BRIEF SUMMARY: Repeals the disposition of excess revenue provision of Article VII, section 6, of the State Constitution.

EFFECTIVE DATE: Voter approval

STAFF COMMENTS: This measure proposes to repeal the provision requiring the return of excess revenue to taxpayers when the general fund balance of each of two successive years exceeds 5% of general fund revenues for each of the two years. While the repeal of the mandatory refund provision may have political appeal because lawmakers have tacitly complied with a minimum \$1 refund per taxpayer, the refund provision serves a purpose. That purpose is making sure the general public is made aware of their state finances. Would the general public have been as adamant about the \$629 million surplus at the end of the 1989 fiscal year had the number not been reported for the purpose of the mandated refund credit? If nothing else, this provision insures people are reminded of just how much money the state is sitting on. Thus, the provision strengthens the accountability relationship between taxpayers and lawmakers.

Digested 2/11/09