

Honolulu, Hawaii

December 10, 2009

RE: Informational Briefing

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2010  
State of Hawaii

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2010  
State of Hawaii

Madam and Sir:

Your Committees on Economic Development and Technology and Economic Revitalization, Business, & Military Affairs, having met regarding:

AN INFORMATIONAL BRIEFING TO GATHER INFORMATION TO DETERMINE THE BROAD RANGE IMPACTS OF POTENTIAL LAYOFFS WITHIN THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM, PARTICULARLY THE SMALL BUSINESS ADVOCATE, THE DBEDT LIBRARY AND COASTAL ZONE MANAGEMENT PROGRAMS,

beg leave to report as follows:

On September 21, 2009, the House Committee on Economic Revitalization, Business & Military Affairs (EBM) and the Senate Committee on Economic Development and Technology (EDT) held the second of two joint informational briefings to examine the impact of the proposed layoffs in the Department of Business, Economic Development, and Tourism (DBEDT) and the effect the layoffs would have on legislatively mandated programs as well as the impact upon the public, particularly upon small businesses in the state. While the first briefing reviewed the impact of the proposed reductions-in-force vis-a-vis the Hawaii Film Office, Community-Based Economic Development (CBED) Program, and the Enterprise Zone/Partnership (EZ/P) Program, the second briefing concentrated

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on layoffs in the Coastal Zone Management (CZM) and Land Use Division (LUD) of the Office of Planning (OP), the elimination of the Small Business Regulatory Review Board (SBRRB) coordinator and reduction of the program's operating funds, as well as the planned elimination of the DBEDT librarian position and closure of the library itself.

Your Committees received testimony in opposition to the proposed reductions-in-force from the SBRRB; Erwin Cabrinha & Au, LLP; Hawaii Business League; Care Companions & Consultants, Inc.; Thomas J. Smyth; The Chamber of Commerce of Hawaii; Charley's Taxi; and several individuals. Your Committees also received comments from OP. The only testimony in support was received from DBEDT.

Written testimony presented to the committees may be reviewed at the Legislature's website, [http://www.capitol.hawaii.gov/session2010/testimony/Info Testimony EBM-EDT 09-21-09 1 .pdf](http://www.capitol.hawaii.gov/session2010/testimony/Info%20Testimony%20EBM-EDT%2009-21-09%201.pdf).

#### **COASTAL ZONE MANAGEMENT PROGRAM (CZM - BED 144)**

Seven positions in OP are being eliminated, with four of the seven positions comprised of professional planners, one of which includes the manager of the CZM Program. Three of the seven positions being eliminated are administrative support staff. One general-funded position that is being eliminated in the CZM Program - that of the manager - leaves 10 remaining employees in the CZM Program.

The CZM Program was established in 1977 pursuant to Section 205A, Hawaii Revised Statutes. The CZM Program is designed to balance the needs of economic development and conservation of resources in a sustainable manner. For the past 32 years, the program has been responsible for carrying out the duties of the State's CZM Program as well as federally-mandated CZM programs and oversight of \$2,000,000 in federal funds allocated to the State as a result of the program.

#### **PRIORITY CONCERNS**

- Loss of federal funds for mandated CZM functions. According to OP testimony, loss of the CZM program manager position "may adversely affect the operations of the CZM Program and result in reduced federal funding." The manager position



provides part of the State match for the \$2,000,000 in federal funds; thus, elimination of the manager position could jeopardize continued receipt of these funds if the match is lost. Various members of the Marine and Coastal Zone Advisory Committee testified that the elimination of this position would be devastating, not only to the integrity of the CZM Program, but would cause the CZM Program to:

*lose its capacity to continue work on critical initiatives such as the Ocean Resources Management Plan (ORMP), climate change, coastal hazards, and the Coastal Nonpoint Pollution Control Program, among others.*

- Adverse impacts to statutorily-mandated programs. Since the CZM Program implements the Ocean Resources Management Plan, Special Management Area Permit administration, federal consistency reviews, adaptation measures for climate change and other coastal zone programs, your Committees believe that removal of the manager position will seriously jeopardize the State's ability to implement this program at current levels of competence and efficacy. To substantiate this point, your Committees received testimony that a September 1, 2009, letter from the National Oceanic and Atmospheric Administration (NOAA) to the Director of DBEDT expressed disapproval of the department's proposed layoff action and concerns about the capability of personnel replacing CZM staff through the "bumping" process. More succinctly, the letter states:

*It is a responsibility of the State to maintain adequate staff capacity in terms of numbers and expertise to effectively meet the federal requirements noted above. . . In the worse case scenario, severe reductions in program capacity could result in sanctions, the loss of grant funds and ultimately, the loss of federal approval, and the ability to apply the federal consistency provisions of the CZMA. We therefore urge the State to consider alternative means of addressing the state budget shortfall which do not result in the loss of the HICZM manager position or the qualified staff which currently implement the HICZM program.*



(Emphasis added; see Appendix 1, September 1, 2009, letter to Director of DBEDT from John King, Chief/Coastal Programs Division of NOAA, Office of Ocean and Coastal Resource Management, U.S. Department of Commerce.)

Moreover, your Committees are concerned that the reduction in force of the Hawaii CZM Program manager seriously compromises the OP's ability to process pending CZM permit applications in a timely manner, thereby creating unnecessary obstacles for proposed projects designed to improve the State's infrastructure and create jobs at a time when they are most needed.

Your Committees find that the Director of DBEDT failed to adequately respond to written questions posed by the EBM and EDT chairs after the briefing, such as:

*How does your agency propose to fulfill the requirements of the federally-required Section 309 assessment, CZMA Performance Measurement and Coastal Nonpoint Pollution Control Program?*

or

*How does your agency propose to fulfill the...commitments found in the NOAA annual cooperative agreement which includes implementation of all state program authorities and the application of federal consistency as well as the administration of the federal CZM?*

The Director's October 9, 2009, written response is unresponsive in that he simply restated:

*The functions of the CZM Program Manager will be shifted to the OP Director and the planning program administrator I, who oversee the operations of the CZM Program.*

With respect to the question:

*How will the Director of the Office of Planning ensure that all applications before the agency - including those involving CZM applications - are handled in an expeditious and comprehensive*



*manner to avoid triggering automatic approvals of such applications?*

the Director said:

*Only one of 11 positions is being eliminated. The changes that occur will not lead to "automatic approvals" being issued.*

Your Committees therefore conclude that the potential loss of federal funds, possibility of sanctions by the federal government, and the likely consequences of inadequate CZM review to Hawaii's environmental resources will cause not only economic harm but considerable environmental harm as well.

#### **LAND USE DIVISION (LUD - BED 144)**

The LUD will lose three of five positions, including two planner V positions and a secretary II position. After the layoff and "bumping" process is completed, the division will consist of the division's administrator and one planner VI position (the planner VI incumbent having been "bumped" by a more senior employee).

The LUD acts on behalf of the State on all matters before the state Land Use Commission (LUC) under Chapter 205, Hawaii Revised Statutes, Hawaii's land use law. The planner positions being eliminated review petitions for land use district boundary amendments and prepare position papers and other filings before the LUC as well as with other state agencies to assure that the State's interest is represented. According to OP testimony, the secretary II position is essential to monitor the submittal, tracking, and filing of positions taken by OP, its testimonies and legal documents as well as those served upon the OP by other parties for all LUC proceedings.

#### PRIORITY CONCERNS

- Inadequacy of State representation in land use proceedings. The Director of OP clarified his original testimony by stating:

*We may be unable to maintain current operations particularly on controversial dockets such as the recent Ho'opili petition.*



to indicate that certain dockets before the LUC

will still be addressed but will require additional preparation time to address. The OP Director, working with the LUD Administrator will establish the work plan to advocate on behalf of interests of the State before the LUC.

(Emphasis added; see Appendix 2, October 9, 2009, response from Director of OP to EBM-EDT Committee chairs' written questions following the September 21, 2009, informational briefing.)

Your Committees are dismayed by the Director's testimony and subsequent statement, because they do not explain how the agency will address the loss of over 50 percent of its professional planner and support staff. The layoffs will obviously impact articulation and pursuit of the State's position in other high-profile dockets, including the Hawaiian Memorial Park expansion, Castle & Cooke Homes Hawaii, Inc. Koa Ridge housing projects on Oahu, Waimanalo Gulch Sanitary Landfill in Ewa, and various projects proposed for the neighbor islands. The loss of experienced staff with specialized expertise will also adversely impact finalization of the State's own petition through OP to reclassify a large portion of the Ka Iwi shoreline in East Oahu from urban to conservation district zoning, which is a project that your Committees note has been the source of community concerns for many years.

- Adverse impacts to statutorily-mandated programs. Similar to concerns expressed over the adverse impacts resulting from elimination of the Hawaii CZM Program manager position, your Committees believe that elimination of over 50 percent of the professional and support LUD staff seriously compromises the State's ability to carry out its responsibilities at a professional level of competence.

Your Committees note that the Director of DBEDT and the Director of OP authorized elimination of over 50 percent of the experienced staff in programs requiring State representation pursuant to Chapter 205, Hawaii Revised Statutes, while other DBEDT programs without direct statutory requirements did not experience the same degree of staffing reductions.



**SMALL BUSINESS REGULATORY REVIEW BOARD (SBRRB - BED 100)**

The SBRRB was established in 1998, pursuant to Chapter 201M, Hawaii Revised Statutes, and is charged with reviewing any proposed new or amended rule or to consider any request from small business owners for review of any rule adopted by a state agency. The SBRRB is also responsible for making recommendations to state agencies or the Legislature regarding the need for a rule change or legislation. In addition, the law requires that all SBRRB members shall be either a current or former owner or officer of a business and that the appointments reflect representation of a variety of businesses in the state so that no more than two members are representatives from the same type of business. Administrative and technical support for the SBRRB is provided by the Small Business Advocate position in DBEDT's Strategic Marketing and Support Division (SMSD), under the Business and Community Assistance Branch. The Small Business Advocate position is one of three positions proposed for elimination within the SMSD.

Because of the specificity of its statutory requirements, the SBRRB is a champion for small business within state government. The SBRRB is the only firewall standing between many of the small businesses and state government, especially with respect to agencies that have (through their rule-making ability) the power to virtually change the economic landscape for small businesses at a moment's notice. The Legislature depends upon the SBRRB for recommendations for legislation to improve the small business climate in Hawaii.

Under Section 201M-2, Hawaii Revised Statutes, the SBRRB is also charged with making a determination on whether any proposed rules will have a detrimental effect on small business. The SBRRB is also charged with conducting a "small business impact statement" as to any proposed rules being floated by a state agency.

PRIORITY CONCERNS

- Loss of specialized expertise in Small Business Advocate position. With the elimination of the Small Business Advocate position and its present incumbent, your Committees believe that the spirit and the intent of Chapter 201M-2, Hawaii Revised Statutes, will be violated. It is highly doubtful that "generalists" within DBEDT will be able to



carry out the requirements of the statute when their experience is compared with the substantive business and legal expertise that the Small Business Advocate incumbent brings to the position. The current staff has served to ensure that establishment of the SBRRB has occurred effectively despite the relatively minimal budget allocated to this program. The importance of this small business perspective is underscored by the statutory requirement that the members of the SBRRB cannot be federal, state, or county government employees.

- Reduced funding for SBRRB operations. Your Committees have also learned that funds for the operations of the SBRRB, as a result of the demise of S.B. No. 387, SD1, HD1, CD2 (which proposed to transfer SBRRB to the Department of Commerce and Consumer Affairs (DCCA), have been reduced to a level that has impeded smooth operations of SBRRB. This reduced funding level works against active participation of neighbor island representatives whose membership is required under state law.

The Small Business Advocate's layoff will effectively render the operations of the SBRRB null and void, thwarting the Legislature's intent of having small business interests addressed at the departmental level of state government.

#### DBEDT LIBRARY (BED 130)

The DBEDT librarian position is being eliminated, although the Director of DBEDT's October 2, 2009, written response to the EBM and EDT chairs' questions was that:

*DBEDT will continue, to the extent budgetary resources allow, to carry a materials and resource center...The resource center will continue to be managed by the Research and Economic Analysis Division, BED 130, and will be available to state departments and the public.*

(See Appendix 3, October 2, 2009, Director of DBEDT's response to EBM and EDT chairs' written questions following the September 21, 2009, briefing).

#### PRIORITY CONCERNS

The DBEDT library has served as the State's only resource to the business community, particularly for Hawaii's small business

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entrepreneurial community. The business resources at the library offer a wealth of information not easily accessible from other public sources to sole proprietors or small businesses. This service is especially valuable to new entrepreneurs when they are just beginning their businesses. At a time when staffing cuts have eliminated experienced economic development program staff in a state agency whose purpose is business development and business retention, the need for the resources and personnel of this library has never been greater.

Preserving the librarian position in the library would give members of the public and small businesses the ability to obtain resources and have their questions answered in a timely manner. Your Committees received testimony from small businesses that have utilized the DBEDT library and who credit the library and its staff with having enabled them to advance business plans, obtain grants and other funding, and navigate the myriad of bureaucratic rules and regulations that businesses in Hawaii face. Your Committees believe that the more appropriate route to maximize limited resources would be to reinstate the librarian position as a cost-effective means of providing valuable services without increasing the size of government.

#### CONCLUSION AND RECOMMENDATIONS

The programs discussed at the September 21, 2009, informational briefing provide critical services in support of State constitutional obligations for planning and land use management of agricultural lands and water use, as well as direct services for small businesses throughout the State of Hawaii.

As noted in the first committee report released by the joint EBM-EDT Committees (October 15, 2009), the Director of DBEDT failed to provide a specific plan for coverage of critical services in the Hawaii Film Office, CBED and EZ/P programs. With respect to OP's CZM Program and LUD, the Director of DBEDT and the Director of OP have failed to offer a coherent plan to maintain statutorily-defined requirements in such areas as the CZM Program's Ocean Resources Management Plan, Special Management Area Permit administration, and federal consistency reviews; or to meet the LUD's requirement of representing the State on land use district boundary amendments and other filings before the LUC. No plan has been articulated for addressing the functions performed by the Small Business Advocate in supporting the operations of the SBRRB or of the DBEDT librarian.



Despite testimony from the Director of DBEDT that the CZM Program manager and LUD positions were being eliminated to achieve "savings," your Committees believe that the immediate short-term and long-term impacts of the position reductions will instead be operational inconsistency and potential harm from federal penalties, including loss of federal funding support for long-established state programs. Additional consequences are likely to include adverse impacts upon businesses relying on DBEDT services and inadequate environmental protections from the OP.

Before making specific recommendations for 2010 legislative action, your Committees believe that, it is important to review the purposes of DBEDT and evaluate whether the cumulative impact of departmental layoffs will harm the State's economy and do damage to the State's credibility with respect to its economic policies. DBEDT's mission has been characterized as:

*working to support business, create jobs and improve Hawaii's standard of living through diversifying the economy, expanding existing businesses and attracting new economic activity. It primarily serves Hawaii's small business community with economic development services that otherwise would not be available.*

(DBEDT, 2001 Annual Report).

In terms of supporting business and creating jobs, your Committees believe that the Director of DBEDT's actions involving departmental layoffs will adversely affect Hawaii's economy and existing jobs in program areas in which the largest number of program cuts are being implemented. For example, in the Creative Industries Division (comprised of thirteen positions at the beginning of 2009), the largest amount of layoffs were imposed on the Film Industry Branch, where its seven-member staff (responsible for implementing the State's film production permits and Act 88, Session Laws of Hawaii 2006 production credits law) was reduced to two after the department's layoffs. Within other DBEDT branches whose responsibilities were not statutorily-prescribed, relatively few positions were identified for layoffs.

Similarly, in terms of providing an appropriate balance between economic development and environmental protection to improve Hawaii's standard of living through economic diversification the layoffs of professional and support positions in OP (and concurrent "bumping" of experienced CZM and land use



planners by less experienced staff) raise grave concerns. Major state responsibilities for coastal zone management and land use classifications (including important agricultural lands), boundary reviews and other land use determinations - all of which are required by law - are being jeopardized without explanation by the Director of OP and the Director of DBEDT.

The combination of layoffs in programs that help existing Hawaii businesses expand (e.g. SBRRB, CBED and EZ/P programs) also troubles your Committees. During prior administrations, DBEDT has been the primary state agency responsible for supporting business, creating jobs, and expanding existing businesses. During the past five years, in particular, DBEDT's mission appears to have shifted away from helping Hawaii businesses through business development and retention strategies towards international business, trade and marketing initiatives whose present value is difficult to quantify.

For example, the department's 2009 budget testimony to the House and Senate fiscal committees emphasizes DBEDT's role in workforce development, an area in which DBEDT's organizational activities for STEM projects appear out-of-step with its statutory responsibilities for business development and retention. (See Table 2 - "Major Activity or Activities Performed," BED 100/SM Strategic Management and Support Division, item 2 - Workforce Development, page 2; DBEDT testimony submitted for January 2009, House Finance/Senate Ways and Means informational briefings.)

Finally, your Committees strongly disagree with the philosophy that directed layoffs towards programs in which work that must continue to be performed is statutorily-required, but the work will now be performed by employees lacking the necessary experience and qualifications for those programmatic functions. While other states have accelerated their efforts to expand programs generating economic value, DBEDT has taken the opposite tack, and your Committees believe that DBEDT has lost all credibility to implement economic policies on the State's behalf.

Against this backdrop, the Director of DBEDT will have to assume responsibility for shortcomings or deficiencies that result from the departmental layoffs he initiated. He must also be accountable for layoff policies that appear to have little relationship to cost-savings and departmental efficiencies. However, because the Legislature has the final word in determining which DBEDT positions are actually abolished through the supplemental budget documents and hearings process, your



Committees believe that there is still an opportunity to avert irreparable harm to the State's economy and its businesses.

With respect to specific program areas, your Committees make the following recommendations:

- Reject the abolishment of the CZM Program manager position during the 2010 Legislature, and require the manager position to possess specialized planning, CZM and programmatic experience/educational background to qualify for and serve in the position. Departmental administrative experience cannot be substituted for the specific technical experience requirement.

The purpose of specialized experience to meet the qualifications of the position will address the need for experienced personnel with the professional competence to administer the federal CZM Program, as well to insulate the State from potential federal sanctions arising from the incumbent CZM Program manager's retirement in 2009.

- Reject the abolishment of Land Use Division positions during the 2010 Legislature, and establish an alternative funding mechanism to ensure that specialized professional and support positions in LUD will be maintained to provide long-term consistency with respect to the State's position on important agricultural lands and other land use determinations.
- Reject the abolishment of the Small Business Advocate position, and move the SBRRB and Small Business Advocate position to DCCA. To the extent that the administration supported the 2005 transfer of the State's "one-stop" Business Action Center to DCCA, your Committees find that the work of the SBRRB and the Small Business Advocate would more compatible within a business regulatory climate in that department.
- Reject the abolishment of the DBEDT librarian V position during the 2010 Legislature, and reinstate an experienced incumbent in the position to serve the general public and the business community.



Respectfully submitted on  
behalf of the members:



ANGUS L.K. MCKELVEY, Chair



CAROL FUKUNAGA, Chair



## **Table 2 - Major Activity or Activities performed**

### **BED100/SM -Strategic Management and Support Division**

#### **1. Export of Goods and Services and Innovation Infrastructure**

- Promotes the development of internationally competitive innovation industries such as education, environmental, medical and health, tourism consulting, bio-agriculture and other growth services industries; and new and emerging industries such as renewable energy technologies, ocean science & technology, and aerospace to compete in global trade and commerce;
- Advocates international awareness, connections and linkages to increase Hawaii's competitiveness in a global economy;
- Attracts new investments in emerging, innovation industries and the export of these industries' products and services.
- Carries out the functions of the Office of International Affairs as legislatively mandated by HRS 201-17;
- Leverages existing agreements with foreign governments and organizations to forge closer ties and generate new business;
- Promotes and fosters economic, political, educational and cultural relationships with alliances overseas in cooperation with the Legislative and Executive Branches of Government;
- Creates business partnership and matchmaking opportunities for Hawaii innovation companies through conferences, events, and Sister-State relationships;
- Operates representative offices in Taiwan and Beijing to provide stable linkages (governmental and business) with those regions;
- Provides relevant and timely information about overseas market opportunities;
- Facilitates introductions between buyers and investors and other incoming business groups to purchase from or partner with Hawaii innovation companies;
- Promotes professional and vocational education and training at Hawaii's institutions to Asian managers, administrators, and students as a means of developing higher value market opportunities; and

- Leverages Hawaii's network of contacts with counterparts in the Asia-Pacific region.

## 2. Workforce Development

- Encourages international curriculum development of secondary and post-secondary education through activities such as international student and teacher exchanges, study abroad programs, and visiting student excursions;
- Coordinates with workforce development agencies and organizations, educational institutions, labor unions and the private sector to collaborate on aligning economic and workforce development initiatives;
- Finds funding support to prepare for and lead Hawaii into an innovation economy including STEM education initiatives;
- Organizes hands-on STEM projects such as the FIRST Robotics competitions and the VEX Challenges.

## 3. Improve Hawaii's Business Environment

- Provides incentives for businesses in targeted areas through the Enterprise Zones Program;
- Advocates the rights of small businesses through the Small Business Regulatory Review Board and the Small Business Utilization Council;
- Supports innovation industry development and entrepreneurship in rural and economically distressed areas;
- Supports community based innovation businesses and organizations through grants and technical assistance;
- Leverages community based grants programs with other county, state and federal sources.

## 4. Workforce Housing

- Attracts overseas investment for housing development.

APPENDIX 1



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL OCEAN SERVICE  
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT  
Silver Spring, Maryland 20910

September 1, 2009

Theodore E. Liu  
Director  
Department of Business, Economic Development & Tourism  
No. 1 Capitol District Building  
250 South Hotel Street  
Honolulu, Hawaii 96813

Dear Mr. Liu:

The Office of Ocean and Coastal Resource Management (OCRM), within the National Oceanic and Atmospheric Administration (NOAA), is the federal agency that administers the federal Coastal Zone Management Act (CZMA) in partnership with coastal states and territories. We work with the federally approved Hawaii CZM program (HICZMP) and annually provide the State with over \$2 million in Federal CZM grant funds, which are matched by the State on a one to one basis. These funds support implementation of the core laws of the HICZMP, including sub-awards to support county administration of the County Special Management Area permit programs, and development of the Hawaii Ocean Resources Management Program.

We are very concerned about reductions in the Hawaii State budget and the elimination of State staff positions that may affect the viability of the HICZMP. We understand that the current proposal calls for the elimination of seven State funded positions, including the HICZMP program manager, within the Office of Planning. The HICZM program manager position is a crucial position that provides overall leadership and direction for the program. The program manager should have the requisite education and experience in Hawaii planning, CZM, and resource management programs necessary to provide such leadership. From our perspective, it is unclear how this critical function could be fulfilled absent a dedicated and qualified manager.

Under the current proposal, we understand that the HICZMP will be able to retain its federally funded positions, but that current staff in these positions will be subject to the state's bumping process during a reduction in force. This may result in the loss of most of the current highly qualified staff charged with implementing the HICZMP. While Hawaii is facing significant budget problems, it must still fulfill the responsibilities set forth under the CZMA, the Approval Findings for the HICZMP, federal regulations regarding the ability of States to implement programs at 15 C.F.R., Section 923.47, and the commitments found in our annual cooperative agreements. This includes the implementation of all state program authorities, the application of federal consistency as well as the administration of the Federal CZM grant.



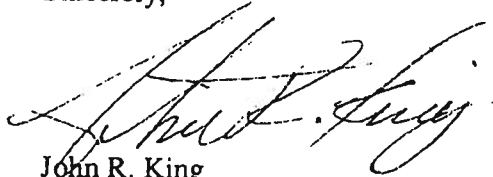


It is a responsibility of the State to maintain adequate staff capacity in terms of numbers and expertise to effectively meet the federal requirements noted above. If OCRM determines that the State does not possess these capabilities, OCRM would work with the State to determine what changes are necessary. The changes could include, but are not limited to, directing a portion of federal funding to address deficiencies. In the worst case scenario, severe reductions in program capacity could result in sanctions, the loss of grant funds and ultimately, the loss of federal approval, and the ability to apply the federal consistency provisions of the CZMA.

*Federal actions  
i.e. sanctions*

We therefore urge the State to consider alternative means of addressing the State budget shortfall which do not result in the loss of the HICZM manager position or the qualified staff which currently implement the HICZM program. We would like to consult with you, Abbey Mayer, and other Hawaii State officials on any proposed changes before they occur. Please contact me at 301-713-1188, for further information, and to set up a meeting.

Sincerely,

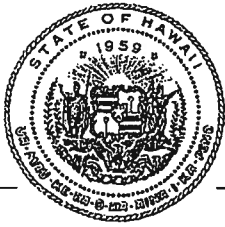


John R. King  
Chief, Coastal Programs Division

cc:

Abbey Seth Mayer, Director  
State of Hawaii, Office of Planning

Hawaii Marine and Coastal Zone Advisory Council



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

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GOVERNOR  
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October 9, 2009

The Honorable Carol Fukunaga  
Chair, Senate Committee on Economic  
Development and Technology  
Twenty-Fifth State Legislature  
State Capitol, Room 216  
Honolulu, Hawaii 96813

The Honorable Angus L.K. McKelvey  
Chair, House Committee on Economic  
Revitalization, Business, and Military Affairs  
Twenty-Fifth State Legislature  
State Capitol, Room 427  
Honolulu, Hawaii 96813

Dear Senator Fukunaga and Representative McKelvey:

Your letter of October 5, 2009, asked various questions pertaining to staff reductions in the Office of Planning. Before responding, let me reiterate that when I joined the Office of Planning, my goals included improving the existing programs, strengthening the office, and supporting the staff. However, the budget situation changed and we all have to face its hard realities, including setting new priorities. The layoff of staff through reduction in force (RIF) has been some of the most difficult decision that I (and other directors) have had to make.

The following provides responses to your questions.

1. What staff do you propose to use from the Office of Planning (OP) or from other parts of DBEDT to carry out responsibilities of the Coastal Zone Management Branch (CZM) and Land Use Division? Please explain your rationale in terminating four professional planners, particularly with respect to the Program Manager of the CZM program and two planner positions in the Land Use Division.

Focus was placed on leaving in place, the number of positions that allows the Office of Planning (OP) to maintain its ability to conduct its statutory responsibilities and meet its contractual obligations.

Due to the significant decline in tax revenue, those departments and programs that are operated through general funds bore a greater burden than those departments and programs which are special-funded. OP has seventeen (17) general funded positions (permanent and temporary). Seven (7) positions were subject to RIF.

OP has three general-funded positions that provide office and fiscal support services. Of these, two were subject to reduction – a Clerk Steno II and Account Clerk IV. The one Secretary IV will provide support to OP's non-CZM programs.

The Special Plans Program was reduced to one employee -- providing the ability to complete obligations on 5 active EDA grants of approximately \$625,000, plus the administration of the Brownfields Revolving Loan Fund. Additionally, the Special Plans Program manager assists the LUD on certain dockets before the State Land Use Commission (LUC).

Staffing for the Coastal Zone Management Program was reduced from two general-funded positions to one. The functions of the CZM Program Manager will be shifted to the OP Director and the Planning Program Administrator II, who oversee the operations of the CZM program.

The only other general-funded staff is in the Land Use Division which will retain its Program Administrator and highest-ranked planner position (Planner VI).

2. Please explain your comment, "*We may be unable to maintain current operations particularly on controversial dockets such as the recent Hoopili petition.*" What impact will an "*inability to maintain current operations*" have on your agency's responsibilities to represent the State of Hawaii before the Land Use Commission (LUC) in current high-profile and controversial projects before the Commission?

Does your agency plan to refrain from representing the State's position on some of the current high-profile and controversial projects before the Commission? If so, who will make the determination on the highest priority cases to be pursued?

The comment referenced in your letter meant that certain dockets before the LUC that are extremely labor intensive will still be addressed but will require additional preparation time to address. The OP Director, working with the LUD Administrator, will establish the work plan to advocate on behalf of interests of the State before the LUC.

3. With respect to the Office of Planning's CZM Program, please explain how your agency plans to address the following adverse impact of the proposed lay-off of the CZM Program Manager: "*The CZM Program receives \$2 million in Federal funds which must be matched by State funds. The manager position provides part of the State match for these Federal funds and Federal funds may be reduced if this match is lost.*"

Matching funds will be provided from a percentage of the OP Director's time allocated to CZM work to support the match of CZM federal funds.

4. Without the CZM Program Manager's salary available to use as the State's fund match, how does your agency anticipate matching the \$2 million "one to one" agreement with NOAA? How does your agency propose to fulfill the requirements of the federally-required Section 309 assessment, CZMA Performance Measurement and Coastal Nonpoint Pollution Control Program if the CZM Program Manager is eliminated?

Please see answers to number 1 and 3 above.

5. How does your agency propose to fulfill the responsibilities set forth under the CZMA, the Approval Findings for the Hawaii CZM Program, federal regulations regarding the ability of states to implement programs...and the commitments found in the NOAA annual cooperative agreement which includes implementation of all state program authorities and the application of federal consistency as well as the administration of the Federal CZM grant?

Please refer to answer in item 1 above.

6. Will any federally-funded positions be eliminated?

No federally-funded positions are slated for elimination at this time.

7. Assuming the current CZM Program Manager position is eliminated in your CZM program, please explain how "bumping" will impact the ability of the CZM Branch to fulfill the responsibilities set forth under the CZMA, the Approval Findings for the Hawaii CZM Program.

Bumping means that incumbents in a position are replaced by a more senior employee with capability to perform the work of the displaced employee, so there should be no significant impact attributed to bumping.

8. How much time and resources will your agency devote to carrying out the Ocean Resources Management Plan and statutorily-required Climate Change Task Force and the Marine and Coastal Zone Advisory Council?

Only one of eleven total CZM positions is being eliminated.

The Honorable Carol Fukunaga

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9. What qualifications does the Director of the Office of Planning possess and/or experience in Hawaii planning and CZM and resource management programs that qualify the Director to provide leadership for the State's CZM program?

The current OP Director has directly engaged in CZM activities and will continue to engage in this effort with the same degree of knowledge and familiarity that has enabled his oversight of the program's administration. The OP Director's updated resume is attached.

10. How will the Director of Office of Planning ensure that all applications before the agency—including those involving CZM applications—are handled in an expeditious and comprehensive manner to avoid triggering automatic approvals of such applications.

Only one of eleven positions is being eliminated. The changes that will occur will not lead to "automatic approvals" being issued.

Sincerely,

A handwritten signature in black ink, appearing to read "Abbey Seth Mayer", with a long horizontal flourish extending to the right.

Abbey Seth Mayer  
Director

Enclosure

**EXPERIENCE:**

- 2008-Present     **THE STATE OF HAWAII, OFFICE OF PLANNING, HONOLULU, HI**  
*Director*
- Appointed by Governor Linda Lingle and confirmed by the Hawaii State Senate to direct the State Office of Planning, January, 2008.
  - Represents the State of Hawaii on all matters before the State Land Use Commission, including, but not limited to, petitions for District Boundary Amendments for Castle & Cooke's Koa Ridge, D.R. Horton-Schuler Homes' Hoopili, City & County of Honolulu's Waimanalo Gulch Landfill; petitions for Declaratory Orders for Alexander & Baldwin Important Agricultural Lands designations; Order to Show Cause proceedings on Ko Olina Development, Kuilima Development and Bridge Aina Lea.
  - Directs the Hawaii Coastal Zone Management Program (CZM), which oversees the statewide Special Management Area (SMA) and Shoreline Setback permit systems; conducts CZMA Federal Consistency Reviews for all Federal actions affecting the State's coastal zone (all lands in the State and ocean waters to 3 nautical miles).
  - Responsible for coordinating the State's Geographical Information System (GIS)
  - Administers and directs a 27-person staff; responsible for an annual budget of over \$5 million dollars of combined state and federal funding.
  - Chair, State Climate Change Task Force
  - Chair, Ocean Resources Management Plan Policy Group
  - Primary Lead, State Emergency Response Team, FEMA Emergency Support Function #14, Long-Term Community Recovery -- in the event of a significant disaster (hurricane, tsunami, etc.) responsibility for directing and coordinating Hawaii's long-term community recovery.
- 2006-2007     **KE AUPUNI LOKAHI (KAL), THE MOLOKAI ENTERPRISE COMMUNITY (EC), KAUNAKAKAI, HI**  
*Executive Director*
- Appointed by and responsible to the KAL Board of Directors, while acting as chief executive officer of Ke Aupuni Lokahi, charged with providing leadership, overall direction and administration of the operations of the Molokai EC.
  - Served as lead project coordinator for all 22 priority projects of the Molokai EC.
  - Administers and oversees all fiscal activities of the Molokai EC, including assessing and implementing internal controls, preparing for and supporting annual audits, and forming annual budgets for KAL and several of its priority projects.
  - Responsible for all aspects of fundraising activities, including grant writing and administering. KAL received over \$2.2 million in grant funding during the first 1.5 years of Mr. Mayer's tenure, while leveraging an additional \$8 million dollars for EC projects.
  - Assisted the KAL Board of Directors in developing short and long-range organizational goals, including the formation of a Molokai Community Development Corporation, a conglomerate of nonprofit and limited liability for-profit corporations.
  - Represented KAL as an Ex-Officio board member of the Molokai Land Trust (MLT). Coordinated fundraising, financial reporting, technical assistance and capacity building for the MLT.
- 2004-2006     **MOLOKAI LIVESTOCK COOPERATIVE (MLC), KAUNAKAKAI, HI**  
*Executive Director and Plant Manager*
- Managed and oversaw all financial and operational responsibilities for the Cooperative, including strategizing the revitalization of the cattle industry on Molokai.
  - Authored and implemented a comprehensive business plan for the MLC, including the opening of its slaughter and processing facility, and a retail outlet for the marketing of Molokai-raised meat and meat products. Emphasis on Certified Organic niche marketing.
  - Wrote, received and administered over \$250,000 in grant funding from multiple sources.
  - Opened the slaughter and processing facility for public use, July, 2005 with full USDA-FSIS Grant of Inspection in January, 2006.

## ABBIEY SETH MAYER

- 2003-2004      **EDDY FOUNDATION, BLACK KETTLE FARM, Essex, NY**  
*Resident Manager and Contractor*
- Managed a historic, circa 1780, 200+ acre farm existing within a 2000+ acre land trust in northern New York State.
- 

### EDUCATION:

- 2007              **UNIVERSITY OF HAWAII, Manoa, HI**  
Executive Accounting Program -- An intensive, 24 credit hour graduate accounting program supplying all educational prerequisites for obtaining CPA licensure.  
**Diploma, 2007**
- 1991-1996      **YALE UNIVERSITY, New Haven, CT**  
**BA- Art, Painting Concentration, June 1996**  
*Painting Fellowship Awardee, Yale Summer School for Art & Music, Norfolk, CT, 1995*
- 1987-1991      **ROSLYN HIGH SCHOOL, Roslyn, NY**  
**Diploma, 1991**  
*Valedictorian; National Merit Scholar Awardee*

### ADDITIONAL SKILLS & SERVICE:

- 2008-2009      **HAWAII LEADERSHIP ACADEMY, Honolulu, HI**  
U.S. Office of Personnel Management provides a year-long course organized into 4 areas: management fundamentals, leading people, leading organizations and strategic leadership.
- 2006 & 2007      **UNIVERSITY OF HAWAII, Manoa, HI -- Department of Urban & Regional Planning**  
Guest Lecturer, *Community Based Planning*
- 2006-Present      **OFFICE OF HAWAIIAN AFFAIRS, Kalamā'ula, HI**  
Volunteer, *Certificate of Recognition of Volunteer Services, 2007 & 2008*
- 2006-2008      **AIKIDO OF MOLOKA'I, Kaunakakai, HI**  
Founder & Chief Instructor
- 2006              **HAWAII ALLIANCE FOR COMMUNITY-BASED ECONOMIC DEVELOPMENT, Honolulu, HI**  
Graduate, *Community Connection 2006*



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

LINDA LINGLE  
GOVERNOR  
THEODORE E. LIU  
DIRECTOR  
MARK K. ANDERSON  
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Telephone: (808) 586-2355  
Fax: (808) 586-2377

October 2, 2009

The Honorable Carol Fukunaga  
The Honorable Angus McKelvey  
Hawaii State Legislature  
State Capitol, Room #216 and #427  
Honolulu, Hawaii 96813

Subject: September 23, 2009 Letter regarding DBEDT Reduction-in-Force

Dear Senator Fukunaga and Representative McKelvey:

Below, please find the responses to the questions contained in your letter dated September 23, 2009, relating to the department's Reduction-in-Force (RIF) decisions.

1. List of departmental RIF was submitted under separate cover.
2. As stated at my two Informational Briefings before your committees, prior to any RIF procedures being contemplated, the Department commenced a re-organization that will combine the Science and Technology Branch, currently under BED 120; the Strategic Marketing and Support Division, BED 100; and the Creative Industries Division, BED 105. The re-organization is driven by two considerations. First, achieving the legislative desire that BED 120 become the State Energy Program, focused exclusively on energy policy and implementation of Energy for Tomorrow and the Hawaii Clean Energy Initiative, two landmarks developed and led by the Department. Second, the creation of a division with critical mass and synergy of personnel to undertake, on a cross-trained basis, the programs under their respective former divisions.

Coincidentally and fortunately, this reorganization also laid the basis for the resulting division to withstand the current RIF's reduction in staffing levels and to continue to implement the programs. Accounting for the current RIFs, the resulting division will include, among other staff:



- Two (2) EM-08-level professionals<sup>1</sup>,
- Four (4) Branch Chief-level professionals, and
- Eight (8) Economic Development Specialist (EDS) professionals

As stated in my testimonies before your Information Briefings, the result of the re-organization and of the RIFs is that the Department will have a staffing configuration consisting more of generalists<sup>2</sup> capable of leading, managing and supporting multiple programs and initiatives at any given time. This is the only way by which the Department can effectively and efficiently fulfill its mission, functions and responsibilities with its available staffing levels.

The Community Based Economic Development Program, the Enterprise Zone program and the Small Business Regulatory Review Board program will be staffed by a combination of the above-reference personnel. As stated at the Information Briefings, these programs will no longer be staffed by one person on a full-time basis but by multiple personnel dedicating sufficient time to match or exceed the one full-time equivalent (FTE) currently supporting each program.

I should note that many of the professionals referred to above have, in the past, not only been directly involved in each of the CBED, EZ and SBRRB programs, but have had overall management responsibility for the programs. As such, there exists sufficient experience base to carry forward the programs.

Finally, I also note that despite the elimination of their positions, the current incumbent manager of the CBED program and the current incumbent manager of the SBRRB program have both been placed within other EDS positions within the division. As such, they will remain within DBEDT and be available as part of the resulting staffing configuration to support these programs.

There are no temporary or exempt staff not reflected in the present organizational chart for BED 100.

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<sup>1</sup> These two division EM-08-level administrators have, for many years, had overall responsibility for the programs that are the subject of your questions. Indeed, one division administrator has had direct involvement in CBED, SBRRB and EZ for many years. The other EM-08-level administrator has had overall responsibility for the film program and served as the Film Commissioner for Maui.

<sup>2</sup> The Economic Development Specialist positions were created specifically to meet the broad and varied needs of the State's economic development function. As such, these positions, reflected in its Position Descriptions (PD), have specific minimum qualifications that include extensive business and economics background and are broader in scope and responsibilities.

I again re-state for the record: The Department had never intended to nor is it shutting down its functions as they relate to CBED, EZ and SBRRB. These programs will continue.

3. As stated above, the staffing configuration is sufficient, in my judgment, to provide at least the one FTE staffing support that currently exists for the CBED, EZ and SBRRB programs. However, already in place is cross-divisional support for these programs. Examples include Director's Office support for the SBRRB and Energy Program support for the Enterprise Zone program. These will continue. Should additional support from other divisions or programs be needed, I intend that this will be provided.
4. The staffing configuration above is sufficient, in my judgment, to provide at least the four FTE staffing support that currently exists for the Film Branch. Should additional support from other divisions or programs be needed, I intend that this will be provided.

I again re-state for the record: The Department had never intended to nor is it shutting down its functions as they relate to supporting offshore film productions' activities in Hawaii. The Department intends to provide all of the functions required by the offshore film productions shooting in Hawaii. Under the existing severe budgetary constraints, the Department can no longer do so on the basis of specialized staff focusing only on this one function. My judgment, based on a full and clear understanding of the remaining staffing configuration, is that such staff is qualified and competent to deliver the necessary functions.

At the Information Briefings, I have referred to the above as the "baseline plan;" that is, the plan if nothing changes between now and the effective date of the current RIFs. I have also stated that I believe there may be the opportunity to improve on the baseline plan. As such, meetings have been held with the film production sector to explore options to add to or improve the baseline plan. These options include potential support from the sector to fund certain functions of the Film Branch, thereby mitigating the Branch's reliance on general funds. These discussions will continue.

There are no temporary or exempt staff not reflected in the present organizational chart for BED 100.

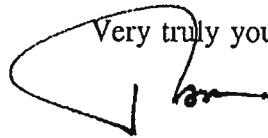
The Honorable Carol Fukunaga  
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For BED 120, the 2009 legislature authorized 18 additional temporary exempt positions not currently on the B&F acknowledged organizational chart. Of BED 120's current staff, 17 are temporary exempt positions.

5. DBEDT will continue, to the extent budgetary resources allow, to carry a materials and resource center. However, the Department can no longer afford a full time librarian. The resource center will continue to be managed by the Research and Economic Analysis Division, BED 130, and will be available to state departments and the public.
6. This information will be submitted by the Director of the Office of Planning. As stated at the Information Briefings, RIF decisions at independent agencies such as the Office of Planning were made by those agencies.

Attached hereto, is the response from Mr. Dennis Ling, BED 100 Division Administrator, to Representative Choy's question on CBED funding.

As previously communicated with you, I had hoped to be able to incorporate in this response, any impact on staffing levels resulting from the jurisdiction-wide placements associated with the current RIF process. As of this writing, the placements have yet to be notified to the Department. Although the specific assignment among remaining positions may be impacted by these jurisdiction-wide placements, I reiterate my intention and expectation that on the basis of the resulting staffing configuration, the Department will continue to support the programs referred to in your letter.

Very truly yours,  


Theodore E. Liu

Attachment

CBED funding, unless provisoed (which was not until 2007), was considered part of the overall budget of the division, with targeted allocations of \$50,000 as noted in the BJ tables. While \$50,000 was a targeted amount at the beginning of each year, it was still part of the division's total fungible budget from which all programmatic and operating expenses were paid. As part of the division's overall budget, the \$50,000 targeted allocation (which was made at the beginning and even before each year), would fluctuate given divisional and departmental priorities during that fiscal year. As noted in the table below dating back to 2000 of the amounts deposited into the CBED revolving fund, the \$50,000 was not considered a "fixed" amount but a targeted amount of the overall fungible budget of the division. The actual infused amount as shown in the table, was based upon several factors that occurred during that fiscal year, including the aforementioned departmental and divisional priorities, as well as other factors such as quality of grant applications, balance in the CBED revolving fund, the DBEDT program's strategic plans and proposed use for the monies, and so forth.

Fiscal Year	General Fund Cash Infusions into Special Fund
2009	50,000
2008	50,000
2007	50,000
2006	15,000
2005	25,000
2004	36,500
2003	96,000
2002	15,000
2001	25,000
2000	15,000

In FYs 2000-2002, less than \$50,000 was given to the CBED revolving fund by the previous administrators of the program, based upon the above cited factors, and especially because it was part of the division's overall fungible budget from which all divisions programmatic and operating expenses were paid.

In 2003, based upon the division's commitment to provide for the CBED program, funds in excess of the \$50,000 targeted amount was provided to CBED.

In 2004-2006, major impacts to the division's overall budget occurred: severe budget reductions to Strategic Marketing and Support Division (approximately \$200,000 cut); and reorganization which resulted in the Business Services Division which included the CBED program being merged into the Strategic Marketing and Support Division (SMSD) and the SMSD spinning off a branch to create a new Creative Industries Division. Funds from the Business Services Division and SMSD were not only merged, but deployed to the CID division. Because of the fungible nature of the merged division's funds and the newly created division, funds could be transferred and utilized to pay for overall divisional programs and operations based upon departmental, divisional and other priorities. These factors impacted the actual amount given to CBED that fell below the targeted \$50,000.

ATTACHMENT FROM DENNIS LING  
RE: CBED FUNDING  
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Other factors that impacted the CBED actuals to be less than the targeted \$50,000 allocation included the Iraq war which occurred during this period and the statewide and department priority to market that Hawaii was open to business—for business investment and travel.

While it was the division's intent to provide \$50,000 to the CBED program as it had targeted during the 2004-2006 period, it fell short of this mark but provided an average of \$43,000 per year. The funds that were not provided to the CBED as targeted were used to pay for other divisional programmatic and operating expenses based upon departmental priorities.

In 2007, the division targeted and provided CBED \$50,000.

Since 2008, CBED funds were provided at \$50,000 and those amounts have been infused into the revolving fund.