

Honolulu, Hawaii

March 19, 2010

RE: S.B. No. 2807
S.D. 2
H.D. 1

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

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2807, S.D. 2, entitled:

"A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 6, OF THE HAWAII CONSTITUTION, RELATING TO THE TAX REBATE REQUIREMENT,"

begs leave to report as follows:

The purpose of this bill is to propose an amendment to Article VII, Section 6, of the Hawaii Constitution to amend the requirement that excess general fund revenues be returned to taxpayers of the State as a tax refund and instead allow the Legislature to deposit these excess revenues into an emergency and budget reserve fund as an alternative.

The Hawaii State Teachers Association and the Policy Advisory Board for Elder Affairs testified in support of this bill. The Office of the Governor, the Department of Budget and Finance, and the Tax Foundation of Hawaii provided comments.

Your Committee finds that although the Legislature is required to make a disbursement of funds when the provisions of Article VII, Section 6, of the Hawaii Constitution are met, the amount of the disbursement has always been a discretionary sum determined by the Legislature. The term "excess funds" jeopardizes the Legislature's discretion by possibly requiring



that the Legislature disburse a fixed amount from the general fund.

Your Committee also finds that establishing one or more emergency funds by statute is preferable to establishing a fund by Constitution. The Legislature needs to retain the flexibility to establish multiple funds and rename them as it deems necessary.

Your Committee notes the Governor's testimony, which provides an alternative triggering mechanism for funding an emergency fund. The Governor proposes that the requirement to transfer funds from the general fund to an emergency fund be triggered whenever general fund revenues for each of two successive fiscal years exceeds revenues for each of the preceding fiscal years by five percent. The Governor's proposal also requires that five percent of the general fund balance be transferred to an emergency fund whenever the triggering event occurs. Your Committee remains opposed to any requirement that would impede Legislative discretion with regards to the amount to be disbursed from the general fund, but defers to the Committee on Finance with respect to the fiscal appropriateness of a triggering mechanism that would look to revenue growth rather than growth in the general fund balance.

Your Committee has amended this bill by:

- (1) Deleting the phrase "excess funds" to eliminate ambiguity;
- (2) Allowing for multiple emergency special funds to be created at the discretion of the Legislature; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2807, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2807, S.D. 2, H.D. 1, and be referred to the Committee on Finance.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



JON RIKI KARAMATSU, Chair



