

HB 1926 HD2

EDT-CPN

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON ECONOMIC DEVELOPMENT AND
TECHNOLOGY AND COMMERCE AND CONSUMER PROTECTION
ON
HOUSE BILL NO. 1926, H.D. 2

March 12, 2010

RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT
AND TOURISM

House Bill No. 1926, H.D.2, establishes the Department of Business, Economic Development and Tourism Operation Special fund. House Bill No. 1926, H.D. 2, assesses an additional \$20 surcharge in addition to the various fees charged by the: Department of Commerce and Consumer Affairs; Public Utilities Commission; Department of Labor and Industrial Relations; and the Department of Taxation, and deposits the proceeds of the surcharge into the Department of Business, Economic Development and Tourism operation special fund beginning July 1, 2010 through June 30, 2015. House Bill No. 1926, H.D. 1, also authorizes the transfer of \$2 million from the Department of Commerce and Consumer Affairs' Compliance Resolution special fund for deposit into the Department of Business, Economic Development, and Tourism Operation special fund, provided that the moneys are not derived from regulatory fees and are derived from taxes, penalties, and other levies set statutorily.

As a matter of general policy, this department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the

benefits sought and charges made upon the users or beneficiaries of the program;

2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. It is difficult to determine whether there is a clear nexus between the benefits sought and the charges made upon the users or beneficiaries of the program and whether the fund will be self-sustaining.



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

RONALD BOYER
ACTING DIRECTOR

RODNEY A. MAILE
DEPUTY DIRECTOR

TO THE SENATE COMMITTEES ON
ECONOMIC DEVELOPMENT AND TECHNOLOGY

AND

COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION, 2010

Friday, March 12, 2010
2:15 p.m.

**TESTIMONY ON HOUSE BILL NO. 1926, HOUSE DRAFT 2
RELATING TO THE DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT, AND TOURISM.**

WRITTEN ONLY

TO THE HONORABLE CAROL FUKUNAGA AND ROSALYN H. BAKER, CHAIRS,
AND MEMBERS OF THE COMMITTEES:

The Department of Commerce and Consumer Affairs (Department) **opposes** House Bill No. 1926, H.D. 2, Relating to the Department of Business, Economic Development, and Tourism. My name is Ronald Boyer, and I am the Department's Acting Director.

Among other things, the bill proposes to add, for a period of five years, a \$20 surcharge on most fees charged by the Department (fees charged for the purpose of providing service to the Department's customers). In addition, the bill would annually,

over the same five year period, transfer \$2 million of the Department's customers' money located in the Compliance Resolution Fund (CRF) to the Department of Business, Economic Development, and Tourism (DBEDT).

Taking of Moneys (Annual Raid of \$2 Million)

The H.D. 2 version of the bill represents an improvement over the original version insofar as the original version proposed to divert \$2 million each year from the Division of Financial Institutions (DFI) CRF subaccount to DBEDT. H.D. 2 replaces the specific designation of the DFI subaccount with a more general reference to the CRF. This provides the Department with more flexibility at the end of the year to determine from which subaccounts the transfer might occur.

H.D. 2 also prohibits using moneys derived from regulatory fees as part of the \$2 million to be transferred into the general fund. The Department appreciates the Legislature's efforts to address some of the Department's earlier-stated concerns; unfortunately, the amendment will not significantly alter the revenue impact on the Department or the Department's customers, nor will it necessarily insulate the transfer from challenge under the December 2008 decision in *HIC v. Lingle*. The annual taking of \$2 million from the CRF amounts to an annual raid on the CRF.

\$20 Surcharge

The proposed \$20 surcharge, in essence, amounts to a tax increase on businesses. From a policy standpoint, the imposition of the proposed surcharge is inconsistent with the Department's long-standing focus of reducing the cost of doing business in Hawaii. The Department understands the revenue picture and that principle must be balanced against the need for additional general fund revenues.

The proposal, however, turns the Department into a tax collector, and represents a significant departure on the agreement or understanding that was reached between the Department, the Legislature, and the Department's customers when the CRF was established. It is not clear that there is any direct nexus between the proposed surcharge and the services provided by DBEDT.

Finally, it remains unclear how the surcharge is to be imposed on the various hourly examination fees charged by the Department. For example, a \$20 surcharge on what is now a \$40/hour examination may, if applied on top of the \$40/hour charge (increasing the charge to \$60/hour), significantly increase costs on affected institutions.

The Department urges the Committees to hold the bill.

TESTIMONY BEFORE THE
SENATE COMMITTEES ON
ECONOMIC DEVELOPMENT AND TECHNOLOGY
AND
COMMERCE AND CONSUMER PROTECTION

Friday, March 12, 2010
2:15 p.m.
Conference Room 016, State Capitol

H.B. NO. 1926 H.D.2

RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC
DEVELOPMENT, AND TOURISM

By Kevin Katsura
Associate General Counsel, Legal Department
Hawaiian Electric Company, Inc.

Chairs Fukunaga and Baker, Vice-Chair Ige, and Members of the Committees:

My name is Kevin Katsura providing written testimony in opposition to H.B. No. 1926 H.D.2 on behalf of Hawaiian Electric Company, Inc. and our subsidiary companies, Hawaii Electric Light Company, Inc. and Maui Electric Company, Ltd. (collectively, the Hawaiian Electric Companies).

The Hawaiian Electric Companies opposes the language found on page 2 that increases the filing fee a regulated public utility must pay for any documents filed with the Public Utilities Commission (PUC) other than to a telecommunications carrier that is the carrier of last resort.

The utilities already pay a public utility fee which funds about twice the amount to fund the PUC and the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs. For fiscal year (FY) 2009, the PUC transferred over \$9 million of public utilities fees to the general fund.¹ For FY 2009 the PUC collected \$16.2 million in public utility fees, about twice the amount needed to fund the PUC and the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs (Consumer Advocate). By statute, in FY 2009,

¹ See PUC Special Fund Report Fiscal Year 2008-09, dated November 2009.

the PUC transferred \$9,338,759 to the general fund, representing its special fund excess balance.

Further, the Hawaiian Electric Companies pay a public service company tax at a combined rate starting at 5.885% and topping off at 8.2%, depending on the individual utility's ratio of net income to gross income. In addition to the revenue taxes, the Hawaiian Electric Companies pay a 2.5% county franchise royalty tax and a 0.5% PUC fee.

Electricity is a necessity of modern living, and an increase in fees imbedded in our cost hurts the lower income consumer the most. Although this fee increase is proposed to be in effect for a limited period, until June 30, 2015, Hawaii consumers can ill-afford this additional cost in these tough economic times.

For these reasons, the Hawaiian Electric Companies respectfully requests that this measure be amended by deleting the language increasing the PUC filing fee. Thank you for the opportunity to testify.

**Testimony to the Senate Committee on Economic Development and
Technology
Friday, March 12, 2010
2:15 p.m.
State Capitol - Conference Room 016**

**RE: HOUSE BILL NO. 1926 HD1 RELATING TO THE DEPARTMENT OF
BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM**

Chair Fukunaga, Vice Chair Baker and Members of the Committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I am here to state The Chamber's concerns with HB 1926 HD2.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

This measure imposes a surcharge on the fees charged by certain departments for certain business and commerce-related authorizations and services.

Although the Chamber understands the intent of this measure, we believe that this measure will have a difficult fiscal impact on businesses, especially as they weather this tough economic storm.

Thank you for the opportunity to testify.

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcawhawaii.org
Website: www.gcawhawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

March 9, 2010

TO: THE HONORABLE SENATOR CAROL FUKUNAGA, CHAIR AND
MEMBERS OF THE COMMITTEE ON ECONOMIC DEVELOPMENT AND
TECHNOLOGY

THE HONORABLE SENATOR ROSALYN H. BAKER, CHAIR AND
MEMBERS OF THE COMMITTEE ON COMMERCE AND CONSUMER
PROTECTION

SUBJECT: H.B.1926, HD2 RELATING TO THE DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT, AND TOURISM.

NOTICE OF HEARING

DATE: Friday, March 12, 2010
TIME: 2:15 p.m.
PLACE: Conference Room 016

Dear Chairs and Members of the Joint Committees:

The General Contractors Association (GCA), an organization comprised of over five hundred and seventy (570) general contractors, subcontractors, and construction related firms, is **opposed** to the passage of H. B. 1926, HD2 Relating To the Department of Business, Economic Development and Tourism.

The GCA believes that this measure is unfair and merely places an additional tax burden on certain businesses and adds to the cost of doing business in Hawaii. The Department of Business, Economic Development and Tourism like any other state agency should be funded through the general revenues of the state.

The imposition of this surcharge will merely increase the cost for businesses and will not help in the economic recovery of state.

The GCA is **opposed** to the passage of H.B.1926 HD2 and request that the bill not be passed.

Thank you for the opportunity to provide our views on this issue.



Integrated Economic Solutions, LLC
Harbor Tower, Suite 2303
700 Richards Street
Honolulu, 96813

Testimony of Thomas J. Smyth, CEcD
Before the
Committee On Economic Development and Technology
Committee On Commerce And Consumer Protection
Friday, March 12, 2010, 2:15 pm Room 016
on
HB 1926 HD 2 Relating to The Department of Business,
Economic Development, And Tourism

Chairs Fukunaga and Baker, Vice Chair Ige, Committee Members:

:

I understand the purpose and intent of HB 1926, HD2, as amended, which would charge a fixed fee of \$20 for each license, permit or other business application with the proceeds going to a new DBEDT Special Fund to cover its personnel and other costs. I do not believe that the fee proposed is fair or equitable.

I registered my Limited Liability Company on-line with Hawaii Business Express for \$52.50 and obtained a GET license for an additional \$20. The fees charged under this new approach would add \$40 to the \$72.50 I paid previously, an increase of 55%. I submit the Annual Report to renew my registration on-line for \$12.50. The new charge would be \$32.50, an increase of 160%. On the other hand, I renew my Real Estate Sales License on-line every two years for about \$148, so an increase of about 14% with the \$20 surcharge is far more reasonable.

I suggest that a percentage of the basic license or permit fees which can vary from \$10 to \$500, say 10%, be used rather than a fixed fee.

The notion that all DBEDT funding come from a special fund has its own drawbacks. Personnel costs are sometimes unpredictable, especially with retirement payouts or other un-programmed payments such as disaster relief overtime. Even travel costs are hard to predict in this era of increasing energy costs. It will be challenge for all concerned if this approach is used.

Thank you for the opportunity to provide testimony.

fukunaga3 - Doris

From: Doss Tannehill [doss@pacificeyes.net]
Sent: Tuesday, March 09, 2010 1:30 PM
To: EDTTestimony
Subject: HB 1926, HD2

Dear Madam Chair and Members of the Committee:

I wish to testify **against** HB 1926, HD2.

I am a practicing optician and have been one for over 38 years.

It is totally unfair to keep adding increase payments to the small business professionals who are already burdened with a heavy tax liability.

Our advisory committee meets every 2 years and therefore our use of the Department is minimal. The Department is critical for our consumers and it is important that the licensure remain intact. But there is no reason to increase the fees for no reason that to increase inflow of money to the state government.

This bill would increase the cost of doing business in Hawaii, which goes against many bills that are trying to reduce the cost of doing business in Hawaii. A mixed message is being sent!!!

I recommend that you hold this bill.

Respectfully Submitted,

Doss

Doss K. Tannehill, BCO

752 17th Avenue

Honolulu, HI 96816

Phone: (808) 738-5300

Fax: (808) 738-5304

www.pacificeyes.net

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 10, 2010 5:51 PM
To: EDTTestimony
Cc: matt.bishop5@hawaiiantel.net
Subject: Testimony for HB1926 on 3/12/2010 2:15:00 PM

Testimony for EDT/CPN 3/12/2010 2:15:00 PM HB1926

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Matthew Bishop
Organization: Individual
Address: 94-418 Kapuahi St. # 17 Mililani, HI
Phone: 808-625-9698
E-mail: matt.bishop5@hawaiiantel.net
Submitted on: 3/10/2010

Comments:

I am opposed to this bill. As someone who registers for a professional license I feel this penalizes me for the work I do. Find the money elsewhere and quit adding new fees onto everything to accomplish your projects. If the government in Hawaii is too big to operate at current tax levels then something needs to give and I don't need to pay more for my professional license. It seems like this legislature is working hard to tax and fee the people rather than work FOR the people! I am opposed to this piece of legislation!

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 11, 2010 1:35 PM
To: EDTTestimony
Cc: gtiwanak@hawaii.edu
Subject: Testimony for HB1926 on 3/12/2010 2:15:00 PM

Testimony for EDT/CPN 3/12/2010 2:15:00 PM HB1926

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Gail Tiwanak
Organization: Individual
Address: 1960 East West Road C105 Honolulu, HI 96822
Phone: 808-956-0524
E-mail: gtiwanak@hawaii.edu
Submitted on: 3/11/2010

Comments:

AMERICAN COUNCIL OF LIFE INSURERS
TESTIMONY IN OPPOSITION TO HB 1926, HD 2, RELATING TO
THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM

March 12, 2010

Via E Mail: edttestimony@capitol.hawaii.gov

Hon. Senator Carol Fukunaga, Chair
Senate Committee on Economic Development and Technology
Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
Hawaii State Capital, Conference Room 016
415 S. Beretania Street
Honolulu, HI 96813

Dear Chair Fukunaga, Chair Baker and Committee Members:

Thank you for the opportunity to testify in opposition to HB 1926, HD 2, relating to the Department of Business, Economic Development and Tourism (“DBEDT”).

Our firm represents the American Council of Life Insurers (“ACLI”), a national trade association whose three hundred (300) legal reserve life insurer and fraternal benefit society member companies operating in the United States account for over 90% of the assets and premiums of the U.S. life insurance and annuity industry. ACLI member company assets account for 93% of the life insurance premiums and 98% of the annuity considerations paid in the State of Hawaii. Two hundred thirty-six (236) ACLI member companies currently do business in the State of Hawaii.

HB 1926, HD 2, would impose a \$20 surcharge on every fee imposed by stated departments and commissions to be deposited into a special fund to finance the activities of DBEDT. In the case of the Department of Commerce and Consumer Affairs (“DCCA”) the \$20 surcharge would be imposed on the filing of every application, license, permit or any other matter relating to a business’ (including life insurers’) authority to do business in the State. In the case of an insurer only, the \$20 surcharge would also be imposed on the payment of its tax on insurance premiums.

Section 1 of HB 1926, HD 2, states that the basis for this bill as applied to life insurers and other businesses regulated by DCCA is that the success of DBEDT in fulfilling its statutorily mandated mission benefits their business. Accordingly, imposing a surcharge upon the fees paid by them to DCCA is appropriate.

The general objectives, functions and duties of DBEDT is “. . . to make broad policy determinations with respect to the economic development in the State and to stimulate

through research and demonstration projects those industrial and economic development efforts that offer the most immediate promise of expanding the economy of the State.” Section 201-2, HRS.

To fulfill its mission the specific functions, positions, offices or programs established within DBEDT include (but are not limited) the following:

- a. Research and Promotion in the following areas: industrial development, land development, credit development, promotion of present and new industries and investments in the State, tourism research and statistics, establishing and updating self-sufficiency standards and coordinating film permit activities . §201-3, HRS.
- b. Energy planning and conservation. §201-12, HRS.
- c. Renewable energy facilitator whose duties include establishing and administering a permitting process for renewable energy projects. §201-12.5, HRS.
- d. Marine resources and affairs. §201-13, HRS.
- e. Collection of data information. §201-13.8, HRS.
- f. Film permitting processing. §201-14, HRS.
- g. Office of International Affairs. §201-17, HRS.
- h. Research and statistics for growth industries. §201-19, HRS.
- i. Office of Aerospace Development. §201-72, HRS.

ACLI submits that the benefits derived by life insurers from the success of DBEDT’s mission in these areas are at best, tenuous.

Life insurers already pay their fair share of the costs of government.

Life insurers are subject to and pay an insurance premium tax of 2.75% of their gross income derived from premiums received on contracts issued to Hawaii residents. At 2.75%, Hawaii already has one of the highest life insurance premium tax rates in the nation (the national average is 1.9%).

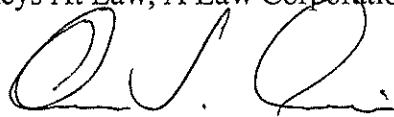
In addition to the fees, premium taxes and other charges imposed under Hawaii’s Insurance Code, life insurers (like other businesses regulated by DCCA) are required to pay a fee into the compliance resolution fund to cover the department’s cost of its compliance activities as required under the laws of this State. §26-9(o), HRS.

For the foregoing reasons, ACLI strongly opposes this bill and requests that your committees defer passage of this bill.

Sincerely yours,

CHAR HAMILTON
CAMPBELL & YOSHIDA
Attorneys At Law, A Law Corporation

By:



OREN T. CHIKAMOTO
808.524.3800

OTC:skuw

COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

DATE: Friday, March 12, 2010
TIME: 2:15 p.m.
PLACE: Conference Room 016
State Capitol

TESTIMONY IN OPPOSITION TO HB 1926, HD 2

Honorable Chairs and members of the committees, my name is Amy Stone Murai and I testify in strong opposition to HB 1926, HD2. I have been a registered nurse for 35 years, an advanced practice registered nurse (APRN) for 33 years, and have been licensed in the State of Hawaii since 1989. I am a member of the Board of Nursing, but provide this testimony as an individual.

HB 1926, HD2 establishes the Department of Business, Economic Development, and Tourism Operation Special Fund for the operation of the department. It also proposes imposition of a surcharge on the fees charged by certain departments for certain business and commerce-related authorizations and services and requires the surcharge revenues and \$2,000,000 from the compliance resolution fund of the department of commerce and consumer affairs to be deposited into the special fund. Specifically the Bill calls for an "added surcharge of \$20 upon every fee charged by: The department of commerce and consumer affairs for the: (A) Application, issuance, renewal, or reissuance of a license, permit, or other authorization for a profession, business, or occupation;"

After initial licensure nurses (RN or LPN) renew their license every two years. The amount charged for each renewal is broken down as follows:

- \$40 application fee
- \$20 license fee
- \$35 Compliance Resolution Fund
- \$ 40 Center for Nursing fee.

All of these fees support services provided to the nursing profession. Nurses pay into the Compliance Resolution Fund with that understanding and expectation. The nurse is likely to see a decrease in services provided to the profession by the proposed diversion of funds to the DBEDT Operation Special Fund, a totally unrelated entity. It is unclear to me how many of the individual items above would have the \$20 surcharge, but at a minimum, the nurse would have a 100% increase of the current license fee.

In addition to the RN licensing fees, authorization as a nurse practitioner is also renewed every two years. The breakdown of this cost is:

- \$40 application fee
- \$20 license fee
- \$35 Compliance Resolution Fund

If HB 1926, HD2 passes, there would again be, at a minimum, a 100% increase in the licensing fee.

In addition, if the nurse practitioner has the authority to prescribe medications the following fees apply to that renewal:

- \$50 application fee
- \$20 license fee
- \$35 Compliance Resolution Fund

If HB 1926, HD2 passes, there would again be, at a minimum, a 100% increase in the licensing fee. The addition of the minimum surcharge **DOUBLES** the cost of the license component **x3** for each renewal period!

Furthermore, if the nurse has a business license to provide professional services as a contract employee, the surcharge related to the GET would also apply.

While I don't deny the value of the Department of Business, Economic Development, and Tourism, I wonder if there had been consideration of the costs, both financial and in services, which this bill would impose on licensed nurses and on nurse practitioners like me.

Thank you for the opportunity to testify in strong opposition to HB 1926, HD2, relating to the establishment of the Department of Business, Economic Development, and Tourism Operation Special Fund. I thank the committee for their consideration and regret that I am not able to be there in person to respond to any questions.

Amy Stone Murai, RN, MS, APRN, WHNP-BC

March 10, 2010

The Honorable Carol Fukunaga, Chair

Senate Committee on Economic Development and Technology

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce and Consumer Protection

State Capitol, Room 016

Honolulu, Hawaii 96813

RE: H.B. 1926, H.D.2 Relating to the Department of Business, Economic Development, and Tourism

HEARING: Friday, March 12, 2010 at 2:15 p.m.

Aloha Chair Fukunaga, Chair Baker and Members of the Joint Committees:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,800 members in Hawai'i. HAR **opposes** H.B. 1926, H.D.2 which establishes the DBEDT special fund and imposes a surcharge of \$20 upon every fee charged by certain departments for certain business and commerce related services.

While HAR understands the State's need for new sources of revenue in these tough economic times, the fee increases will impact both the cost of doing business in Hawai'i and for real estate licensees to engage in the practice of their business.

These following surcharges are of concern:

- The Department of Commerce and Consumer Affairs for the application, issuance, renewal, or reissuance of a license, permit, or other authorization for a profession, business, or occupation.
- The Department of Taxation for the application, issuance, renewal, or reissuance of a license, permit, certificate, or other authorization required under the following taxes: General Excise; Transient Accommodations; Rental Motor Vehicle and Tour Vehicle; Liquor; Cigarette and Tobacco; Liquid Fuel; Public Service Company; and Bank and Financial Corporation.

The above proposed fees are paid by businesses and individuals who do business here in Hawai'i. Hawai'i consumers and independent employees can ill-afford this additional cost in these tough economic times.

Mahalo for the opportunity to testify.