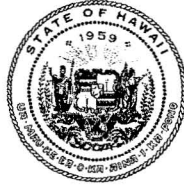


LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

STANLEY SHIRAKI
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 FINANCE
TESTIMONY REGARDING HB 2844 HD 1
RELATING TO FILM INDUSTRY**

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

DATE: FEBRUARY 18, 2010

TIME: 2PM

ROOM: 308

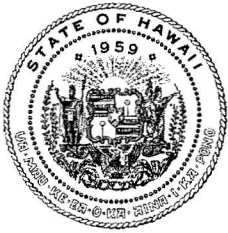
This bill assesses an additional general excise tax surcharge tax on motion picture theater operators. This measure also authorizes the Department of Business, Economic Development & Tourism (DBEDT) to assess fees in the administration of the film credit.

The Department of Taxation (Department) **opposes the surcharge** on the theater operators; however **supports the authority to assess fees** in order to fund the film industry branch.

OPPOSED TO ADDITIONAL SURCHARGE ON THEATER OPERATORS—The Department does not support the surcharge on theater operators in order to support the film office. Though there is some logical nexus between theater operators and the motion picture industry, these industry participants do not utilize the film office's services to such an extent that they should bear the brunt of an additional surcharge on their activities. Targeting those that use the services, such as through direct fees as is proposed elsewhere in the bill, is more appropriate.

SUPPORT FOR THE ASSESSMENT OF FEES TO FUND THE FILM OFFICE—The Department strongly supports authorizing DBEDT to assess fees on services associated with the film office in order to directly fund its activities. The film office is a vital component of DBEDT and is one of the few branches in government that brings millions of dollars into the Hawaii economy for very little outlay to the general fund. The film office attracts motion pictures to Hawaii, which provide jobs to the film industry workers locally. The film office has been instrumental in laying the foundation of industry infrastructure for continued film production success in Hawaii. As has been the case for decades, the film industry in Hawaii brings in millions of dollars in direct spending. Allowing the film office to remain fully staffed and operational through the use of fees to offset costs is a good step toward maintaining Hawaii's position as a film production destination.

REVENUE IMPACT—As amended, this measure will result in a revenue gain to the film office special fund of approximately \$96,000 per year. There is no impact to the general fund.



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

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
PEARL IMADA-IBOSHI
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON FINANCE

Thursday, February 18, 2010
2:00 p.m.
State Capitol, Conference Room 308

in consideration of

HB 2844 HD1
RELATING TO THE FILM INDUSTRY

Chair Oshiro, Vice Chair Lee, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) offers the following comments regarding HB 2844 HD1, which seeks additional revenue streams and creates a special fund to support the film industry branch operations in the Creative Industries Division of DBEDT.

We request that the committee consider the administration's proposal in HB 2529 and SB 2682, Relating to Media which also the need for non general fund revenue streams to support creative industry development. We recommend this measure include a percentage of film studio rental fees to support the operations for film, television, digital media and creative industry sector operations and development.

DBEDT and its Creative Industries Division, in which the film and arts and culture development branches are located, knows the value of the creative sectors as collectively, the arts, music, culture, film, television and digital media industries are important economic

generators for the State. In the recent Creative Industries Report developed by DBEDT's Research and Economic Analysis Division (READ), the 44,000+ constituents that comprise Hawaii's creative sectors collectively contributed \$4 billion to Hawaii's gross domestic product in 2008, and have been growing at a rate of ten percent since DBEDT's research and economic analysis division began tracking the growth in 2002.

Thank you for the opportunity to provide these comments.

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 2844, H.D. 1

February 18, 2010

RELATING TO THE FILM INDUSTRY

House Bill No. 2844, H.D. 1, establishes the Film Industry Branch special fund in the Department of Business, Economic Development and Tourism. Revenues in the special fund are comprised of: 1) general excise tax surcharges upon motion picture theater operators; 2) fees charged for obtaining film permits; 3) appropriations by the Legislature; and 4) gifts, donations, and grants from public and private entities. House Bill No. 2844, H.D. 1, also provides that moneys from the Film Industry Branch special fund be used for the operation of the film industry branch; however, no appropriation is included in the bill.

As a matter of general policy, this department does not support 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 the Film Industry Branch special fund would meet these criteria.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, GENERAL EXCISE, Tax on motion picture theater

BILL NUMBER: HB 2844, HD-1

INTRODUCED BY: House Committee on Economic Revitalization, Business, and Military Affairs

BRIEF SUMMARY: Amends HRS section 237-13 (4) to provide for the imposition of a surcharge equal to 0.2 percent of the gross income of every person in the business of operating motion picture theaters from July 1, 2010 to June 30, 2015; except that the surcharge shall not be imposed on any gross income from the sale of amusements at wholesale. Stipulates that for the purpose of administering and collecting the surcharge, enforcing its payment, and punishing delinquent payers or non-payers, HRS chapters 237 and 231 and other relevant law shall apply.

Amends HRS section 235-17 to permit the department of business, economic development and tourism (DBEDT) to set the qualification fee in an amount to cover the cost of the department for performing duties relating to the qualified production tax credit.

Amends HRS section 201-14 to allow DBEDT to charge an application fee from any person who proposes to make a motion picture, television show, television commercial or any other visually recorded production and permit fees for filming at certain sites in the state.

Adds a new section to HRS chapter 201 to establish a film industry special fund into which revenues from the following shall be deposited: (1) the general excise tax surcharge on the gross income of motion picture theater operators and television broadcasting stations; and (2) fees charged by DBEDT under HRS section 201-14 and HRS section 235-17. Expenditures from the special fund shall be made for the operation of the film industry branch of the department.

This act shall be repealed on June 30, 2015; and HRS sections 201-24, 235-17, and 237-13 shall be reenacted in the form in which they read on the day prior to the effective date of this act.

EFFECTIVE DATE: July 1, 2112

STAFF COMMENTS: This measure would impose a temporary general excise tax surcharge of 0.2% on the gross income derived from the operations of movie theaters between July 1, 2010 and June 30, 2015. The measure would also allow DBEDT to charge fees for the performance of its duties relating to the film industry branch and establishes a new film industry branch special fund, funded by the general excise tax surcharge and fees. It should be remembered that any additional tax imposed on the subject businesses will be passed on to consumers in the cost of higher prices at the movie theaters.

Due to the dire financial shortfall that the state is in, it appears that this measure is proposed to generate funds to operate the film industry branch of DBEDT and also perpetuates the use of special funds. It should be noted that as with any earmarking, the legislature will be giving their stamp of approval for

another "automatic funding" mechanism. Apparently this proposal is in reaction to the administration's downsizing of the film office in DBEDT. Given the other pressing demands and priorities of state government, this was the decision of the administration. Thus, this proposal can be viewed as a circumvention of that decision without having to find funds from other programs to pay for the operations of the film office.

Giving the film office its own funding mechanism will remove oversight of that operation while at the same time imposing a surcharge on the general excise tax on a seemingly related activity - movie theaters. If the legislature wants to insure the continued operation of the film office, then it should allow the film office to generate its own funds for services it provides directly to the film industry much as the fee structure of DCCA which is entirely self-sufficient based on the licensing and regulatory fees it charges the various professions and activities it oversees. That being the case, then no revenues from general taxes, such as the general excise tax, should be allotted to the film office operation. In fact, other programs which have been cut should be outraged that the film office should be given a dedicated source from the general excise tax. This measure deserves closer examination with respect to the message it sends to all taxpayers.

Indeed, the creation of special fund financed programs through earmarked resources is one of the major reasons why the state is in such dire financial condition as more and more programs are financed through the back door, out of sight of the taxpaying public.

Digested 2/17/10



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA
Executive Director
Tel: 808.543.0011
Fax: 808.528.0922

NORA A. NOMURA
Deputy Executive Director
Tel: 808.543.0003
Fax: 808.528.0922

DEREK M. MIZUNO
Deputy Executive Director
Tel: 808.543.0055
Fax: 808.523.6879

**The Twenty-Fifth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Finance**

**Testimony by
Hawaii Government Employees Association
February 18, 2010**

**H.B. 2844, H.D. 1 (HSCR276-10) -
RELATING TO THE FILM INDUSTRY**

The Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO, supports H.B. 2844, H.D. 1 (HSCR276-10). The purpose of this bill is to create a film industry branch special fund to help finance the operations of the film industry in Hawaii. It proposes to impose a general excise tax surcharge on the gross income of the motion picture theatre operators which is estimated to generate \$350,000 annually for the special fund. Various fees are also proposed to be charged for activities related to the film industry. Appropriations from the legislature, gifts, donations and grants from public and private entities may also be deposited into this new film industry branch special fund.

The Film Industry Branch of the Department of Business, Economic Development and Tourism (DBEDT) generates a significant amount of tax revenue for the State of Hawaii. They have attracted many film producers to the islands and have brought in millions of dollars to boost Hawaii's economy.

Based on the above, HGEA supports H.B. 2844, H.D. 1 (HSCR276-10). Thank you for the opportunity to submit our comments.

Respectfully Submitted,

Nora A. Nomura
Deputy Executive Director