

LINDA LINGLE
GOVERNOR



BARBARA E. ARASHIRO
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DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
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Honolulu, Hawaii 96817

EXECUTIVE ASSISTANT

Statement of
Barbara E. Arashiro
Hawaii Public Housing Authority
Before the

HOUSE COMMITTEE ON FINANCE

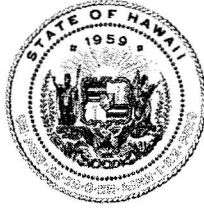
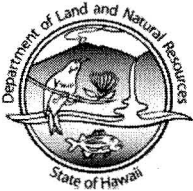
February 10, 2010 4:00 P.M.
Room 308, Hawaii State Capitol

In consideration of
H.B. 2879
RELATING TO STATE FUNDS

The Hawaii Public Housing Authority (HPHA) opposes H.B. 2879, which would impose a general excise tax surcharge on the proceeds of contracts involving federal funds. HPHA opposes this measure due to its impact on the priorities set forth in the Executive Supplemental Budget for Fiscal Year 2010-2011, and because it will reduce the total amount of work we can do with the available federal funding.

The majority of HPHA's contracts are federally funded, and if this bill is enacted the bids on those contracts will likely be 1% higher to account for the tax. We will pay \$101 for the same work that previously cost us \$100; when scaled up to the millions of dollars in contracts we execute each year, the cost increase is significant. This will reduce the amount of housing repairs, renovation and operations that can be accomplished with the available funds.

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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HONOLULU, HAWAII 96809

**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the House Committee on
FINANCE**

**Wednesday, February 10, 2010
4:00 P.M.
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 2879
RELATING TO STATE FUNDS**

House Bill 2879 would temporarily impose: 1) A state surcharge on certain business income comprised of state non-general funds; 2) A public service company tax surcharge upon gross income comprised of state non-general funds; 3) An insurance premium tax surcharge upon gross premiums, gross underwriting profits, and risk premiums comprised of state non-general funds. The Department of Land and Natural Resources (Department) opposes this measure because of the adverse impact it will have on the Department's operating and capital improvements project funds.

The Department's special fund expenditures have already declined 35% over the past three years. This surcharge will amount to an additional drain from shrinking resources currently being used for department staff and/or operations and management of state parks, state lands, forest reserves, natural area reserves, invasive species programs, and community and landowner conservation programs. A number of the Department's special funded programs are operating at break even point with revenue, and a further reduction in resources for expenditures would potentially result in staff layoffs.

Payment of a surcharge for federal funds directly to the Department of Taxation or Public Utility as proposed under Sections 231-A(a) and 239-A(c) is not an allowable charge and therefore would likely be considered a violation of federal grant agreements. A similar problem would occur with two of the Department's special funds, the Sport Fish Special Fund and the Wildlife Revolving Fund. These non-general funds are established to collect the proceeds of sport fishing and hunting license sales. The use of these special funds for any purpose other than for the implementation of the Department's Sport Fish Restoration or Wildlife Restoration Programs will be a diversion of license revenues and disqualify the Department from participating in the federal Sport Fish and Wildlife Restoration Program which contributes over \$5,000,000 in federal Sport Fish Restoration funding and \$2,000,000 in Wildlife Restoration and Hunter Education Program funding annually. A 1% surcharge against these non-general funds equates to \$3,000 from the Wildlife Revolving Fund and \$250 from the Sport Fish Special Fund for a

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DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

total of \$3,250 for the State, but on the flip side, would result in a loss of \$7,000,000 in federal funding.

House Bill 2879 would result in transfers of the equivalent cost of the surcharges from special, revolving, federal and CIP funds to the State's General Fund. However, the vendor would likely not absorb the surcharge itself and instead, pass the cost of the surcharge on to the State in the form of providing less services or product equal to the amount of the surcharge, i.e., [ceteris paribus] for \$100,000 in non-general fund expenditures made in Fiscal Year 2011, the State would likely receive \$99,000 worth of services or product in Fiscal Year 2010 dollars.

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SUBJECT: ADMINISTRATION, GENERAL EXCISE, PUBLIC SERVICE COMPANY, INSURANCE PREMIUMS, State surcharge on non-general fund contracts

BILL NUMBER: HB 2879

INTRODUCED BY: Say

BRIEF SUMMARY: Adds a new section to HRS chapter 237 to establish a state surcharge of 1% on the gross income or gross proceeds of a sale that is: (1) comprised of state non-general funds; (2) received by the person under a contract with any state department or agency; and (3) taxed at a rate greater than 0.5% under the general excise tax. If under the contract with the state department or agency the gross proceeds are comprised of both state non-general funds and state general funds, the state surcharge shall be assessed and collected against only the portion comprised of state non-general funds. All proceeds of the state surcharge shall be realizations of the general fund and the amount of the surcharge shall not be included in "gross income" or "gross proceeds of sale" taxable under HRS section 237-13.

Adds a new section to HRS chapter 239 to establish a state surcharge against a public utility of 1% on the gross income that is: (1) comprised of state non-general funds; (2) received by the public utility under a contract with any state department or agency; and (3) taxed at a rate greater than 0.5 per cent under HRS section 239-5. If a contract with the state department or agency is comprised of both state non-general funds and state general funds, the state surcharge shall be assessed and collected against only the portion comprised of state non-general funds. All proceeds of the state surcharge shall be realizations of the general fund and shall not be included in gross income taxable under HRS section 239-5. This section shall not apply to any carrier that is subject to HRS section 239-6.

Adds a new section to HRS chapter 431:7 to establish a state surcharge against an authorized insurer on the gross premiums, gross underwriting premiums, or risk premiums that are: (1) comprised of state non-general funds; (2) received by the authorized insurer under a contract with any state department or agency; and (3) subject to taxation under HRS section 431:7-202. The rate of the state surcharge shall be 25%, rounded to the nearest one-hundredth, of the applicable rate under section 431:7-202. If the contract with the state department or agency, the gross premiums, gross underwriting profits, or risk premiums of an insurer are comprised of both state non-general funds and state general funds, the state surcharge shall be assessed and collected against only the portion comprised of state non-general funds. The amount of the state surcharge shall not be included in gross premiums, gross underwriting profits, or risk premiums taxable under HRS section 431:7-202.

Adds a new section to HRS chapter 231 to provide for the collection of the surcharge imposed under the general excise, public service company, and insurance premiums taxes as proposed by this measure.

The director of taxation may enter into a memorandum of agreement with any state officer for the transmittal of the state surcharge imposed under HRS chapters 237, 239 and 431. The state surcharge shall be paid to the director of taxation by the person who receives the gross income, gross proceeds of

sale, gross premiums, gross underwriting profit, or risk premiums upon which the surcharge is levied and assessed at the same time as payment of the general excise, public service company, or insurance premium taxes.

Defines "state non-general funds" as all funds, other than general funds, expended by a state department or agency, including state general obligation bond funds.

Makes conforming amendments to HRS section 103D-1008 and HRS section 237-8.6(d).

This act shall be repealed on June 30, 2015 and HRS sections 103D-1008 and 237-8.6(d) 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, 2010

STAFF COMMENTS: This measure temporarily imposes a state surcharge of 1% on income received by certain businesses from contracts with the state that are paid from non-general fund sources. The measure states that "state government is a major, consistent, and reliable source of business for many contractors. Thus, the legislature finds that contractors should temporarily pay a premium for doing business with the state." While it appears that the measure is proposed to charge a premium to contractors for transactions with the state that involve payments by the state with non-general funds, the adoption of this measure will result in an increase in contract bid prices or a reduction in the quantity or quality of the services or goods provided.

While the definition of non-general funds includes state special funds, proceeds of general obligation bonds, federal funds as well as possibly county funds, this measure is nothing more than a shell game of state finances, converting non-general fund dollars into general fund dollars. Inasmuch as bond proceeds represent long-term debt to be repaid by several generations of taxpayers, converting a portion of those bond proceeds to general fund cash to pay for current expenses raises a question of appropriateness. Similarly, federal funds which are earmarked for a specific service or program would also be converted into general fund cash to be used for any and all programs and that may raise the question of propriety of those federally earmarked dollars.

Basically this measure amounts to nothing more than stealing from designated funds to pay for general fund services and programs of the state. As noted before, one area that could be explored is the numerous special funds that have been created over the past few years. Bringing those funds and programs back to the general fund table will allow lawmakers to then set priorities for all of those dollars.

Digested 2/9/10